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*The Concept of Legitimacy in  
International Relations:  
lessons from Yugoslavia*

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## *Abstract*

The thesis builds a model of 'orthodox Western' legitimacy on the basis of the interaction of 'dominant paradigms' in Western thinking about the states-system, the state and the international economy. These are a Realist vision of the states-system, a liberal conception of the state and a free-market, economic liberal version of the international economy. The thesis therefore links the domestic, the international and the economic to overcome the narrow focus on institutions and procedures in legal accounts of international legitimacy and the lack of consideration of the international in domestic approaches. By treating legitimacy as a value judgement the thesis also shows up the failure of existing accounts to consider the competing and contradictory constraints on action established by the value systems tied up with dominant paradigms. Therefore, as well as allowing for judgements against institutional and procedural custom and practice, the model restores the normative content of legitimacy by rooting such judgements in consistency with underpinning value systems, introducing flexibility and prescriptive power.

The model is tested and refined by an examination of the rise and fall of Yugoslavia between 1945 and 1992. This looks at the legitimation of Tito's political and economic system and the crisis it suffered during the 1980s. Despite the Western focus of the model it is shown to point towards important issues in the loss of legitimacy by Yugoslavia. In particular, reasons for the timing of its collapse and the bitterness of disputes over reform are shown to be rooted in fundamental disagreements about value systems as the basis for re-legitimising a post-communist country. In addition, there is a lengthy and detailed study of the efforts by the international community to manage the crisis between 1990 and the recognition of Bosnia in 1992. The value of the model in uncovering limitations on actions, explaining policy choices and allowing judgement is reaffirmed and lessons for theoretical refinements are drawn. The thesis is therefore an effort to critique and develop theoretical concepts whilst also subjecting them to serious empirical analysis.

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# Chapter 1

## *Introduction*

### 1.1 The nature of the thesis

Legitimacy is an idea with a low profile in international relations. Until recently it had received very little formal examination at all. Martin Wight and Inis Claude devoted some attention to it, but without inspiring a wider debate about an idea many seem to have felt had little role to play in an arena often characterised as dominated by power politics and the amoral pursuit of the national interest.<sup>1</sup> In the last few years the idea has been revived, primarily by international legal scholars. This has produced the first book length study of the idea which in turn appears to have inspired further interest.<sup>2</sup>

Following the lead of Claude,<sup>3</sup> these examinations have focused on the issues of the legitimacy of institutions and especially institutional procedures. Wight's account of the changing basis of the mutual recognition of states has less of a direct echo but is similar because it focuses on states. Therefore, the examination of legitimacy has

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1 Inis L. Claude, Jr., "Collective Legitimization as a Political Function of the United Nations," *International Organization* 20 (1966). Martin Wight, *Systems of States* (Leicester: Leicester University Press, 1977), 153-173.

2 Thomas M. Franck, *The Power of Legitimacy Among Nations* (Oxford: Oxford University Press, 1990). Sean D. Murphy, "The Security Council, Legitimacy and the Concept of Collective Security After the Cold War," *Columbia Journal of Transnational Law* 32 (1994). David D. Caron, "The Legitimacy of the Collective Authority of the Security Council," *American Journal of International Law* 87 (1993).

3 "the crucial question is not *what* principle is acknowledged but *who* is accepted as the authoritative interpreter of the principle or, to put it in institutional terms, *how* the process of legitimization works." Claude, "Collective Legitimization," 369-70. Caron is explicit about taking this lead.

been limited and concentrated on the international level. This contrasts with domestic politics and society, where the issue of legitimacy has a much greater role to play.

Here the field has been dominated by the work of Max Weber.<sup>4</sup> Legitimacy is something that rulers seek to achieve in relation to the ruled. It defines the basis on which the right to rule rests. Weber and those who have followed him have tried to be as impartial as possible about this right to rule, attempting to avoid attaching any normative content to the notion, any sense of what ought to be. What is and how it differs from what ought to be are issues for the ruler and the ruled. If the right to rule rests on coercion and that coercion goes unchallenged, even through fear, then the rule is legitimate.<sup>5</sup>

This concern with examining the mechanisms of authority is shared by the work in international relations and international law. The concentration is on explaining why decisions are accepted, an issue of particular concern in the international realm in the absence of an over-arching authority able to coerce. What Thomas Franck describes as “the voluntary pull to compliance”,<sup>6</sup> which is his measure of legitimacy, is therefore divorced from the issue of the value systems which underpin the existence of the institutions and which create the goals its procedures are designed to help achieve.

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4 This is a point made by J. H. Schaar, “Legitimacy in the Modern State,” in *Legitimacy and the State*, ed. William E. Connolly (Oxford: Basil Blackwell, 1984). In the same volume see also Max Weber, “Legitimacy, Politics and the State”.

5 For an example of the construction of such a ‘value-free’ concept of legitimacy based on Weber’s work see James Gow, *Legitimacy and the Military: the Yugoslav Crisis* (London: Pinter, 1992), 14-21.

6 Franck, *The Power of Legitimacy Among Nations*. This is the standard he uses throughout the book.



The concentration on the right to rule within states and on the creation of a situation in which decisions can be effective between states has reinforced the domestic - international divide in the analysis of legitimacy.<sup>7</sup> They are treated as separate spheres in which different institutions and procedures operate and different rules are followed. The power of the rule of non-intervention in the international sphere exemplifies the divorce between the two spheres. What goes on within a state should be of little relevance to its legitimacy as an international actor and, following Weber, the idea of legitimacy does not allow for making value judgements about the basis of the right to rule within a particular state. Therefore, the two approaches, although seemingly separate - there are precious few references to Weber in the legal literature for instance - are nevertheless complementary.

This helps to explain the lack of attention and limited scope given to legitimacy in international relations. The dominant paradigm of legitimacy deals with social and political relationships within the state and focuses on the right to rule, something which international politics is arranged to preclude as far as possible. This has not stopped legitimacy being a word bandied around in international relations, both by practitioners and academics.

However, it is generally used in a rather different way. Legitimacy is used to denote the desirability in moral and ethical terms, often with a degree of legal formalisation, of an action or an actor - whether it be a state, an individual, an international organisation or a multi-national corporation. If something is legitimate it contributes to bringing about what ought to be, it has a normative content. This is how the word

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<sup>7</sup> For an interesting discussion of the declining relevance of this divide see Howard Williams, "International Relations and the Reconstruction of Political Theory," *Politics* 14 (1994): 135-42.

tends to be used in everyday life: that which is legitimate is, “....lawful, proper, regular....”<sup>8</sup> The ideas of ‘propriety’ and ‘regularity’ and the connections between legality and justice are not ideas confined solely to the domestic scene and are different from the value-free, descriptive version of legitimacy of Weber and his successors.

This suggests a way to re-cast the idea of legitimacy to encompass domestic and international politics and deal with the need to examine the foundations of the notion in value-systems which enable judgements about propriety to be made. This has the added benefit of developing a concept reflecting a common understanding of the term.<sup>9</sup> Legitimacy needs to be seen as a value judgement rather than a descriptive label for a political relationship.

This is something argued at length by David Beetham.<sup>10</sup> He says there is a need to accept the ethical content of the idea of legitimacy but to treat this in a practical and contextual way, rather than search for the absolute truths of the ethical philosopher. Legitimacy means different things at different times and in different places as the value-systems against which judgements of propriety, regularity and justice are made. Ideas of what ought to be are not constant but they are ever present. Therefore, there is a need to do more than give an account of the basis of the right to rule within a state and the ability of an institution to attract compliance with its decisions in the international sphere. This does not go far enough. There is a need to consider the

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8 *Concise Oxford Dictionary*, 8th ed., (Oxford: Clarendon Press, 1990), 677.

9 The importance of this is stressed by William E. Connolly, *The Terms of Political Discourse*, 3rd ed. (Oxford: Basil Blackwell, 1993), 9-44.

10 David Beetham, *The Legitimation of Power* (Houndmills: Macmillan, 1991). Chapter 1 provides a strong critique of the Weberian approach.



reasons behind these manifestations of legitimacy, to explore the value systems and structures which establish limits on the sort of institutions which are possible at all and the sorts of goals they aim at.

Beetham's arguments offer a chance to open the legitimacy debate to international relations in a way that takes seriously the idea that the international environment is not a moral vacuum in which self-interested states pursue those interests free from ethical restraint. There are a whole range of rules and principles of behaviour, some with the status of law and some without, that identify how states and, increasingly, other actors should behave in their relations with one another.<sup>11</sup>

The idea of an 'international society' rests on the notion that each member of the society not only has to take the others into account when making decisions, but they have developed common rules and institutions for regulating their relations and recognise a shared interest in maintaining these.<sup>12</sup> There exists an idea of what ought to be. Therefore, the idea of legitimacy as a value judgement becomes possible.

The existing accounts of legitimacy focus upon compliance with a variety of legal, procedural and institutional standards. However, they deny themselves the

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<sup>11</sup> Important elements of this sort of approach were developed by the 'English School' of international relations. Key texts in this tradition include Wight, *Systems of States*. Martin Wight, *International Theory: the Three Traditions*, edited by Gabriele Wight and Brian Porter (Leicester: Leicester University Press, 1991). Herbert Butterfield and Martin Wight, eds., *Diplomatic Investigations: Essays in the Theory of International Politics* (London: George Allen and Unwin, 1966). C. A. W. Manning, *The Nature of International Society* (London: G Bell and Sons, 1962). Hedley Bull and Adam Watson, eds., *The Expansion of International Society* (Oxford: Clarendon Press, 1984). Adam Watson, *The Evolution of International Society: a Comparative Historical Analysis* (London: Routledge, 1992). Hedley Bull, *The Anarchical Society: a Study of Order in World Politics* (London: Macmillan, 1977). R. J. Vincent, *Non-Intervention and International Order* (Princeton N. J.: Princeton University Press, 1977).

<sup>12</sup> Hedley Bull and Adam Watson, "Introduction" in *The Expansion of International Society*, ed. Bull and Watson, 1.

opportunity to look behind these mechanisms of legitimacy at the more general normative standards legitimacy is measured against. Answering Beetham's call for a piece of practical political ethics seems to require an approach which also looks at how the value systems which underpin judgements about legitimacy have developed and how they interact. This is best done by considering the practical limits they place on actions and institutions - how they provide a structure for the debate. Having looked at how the present position has been reached and by uncovering the foundations of this position it is then possible to sympathetically assess the legitimacy of actions of individuals and institutions which does more than make pronouncements on legitimacy from the standpoint of compliance with institutional rules and procedures.

Connecting the domestic and the international in the search for a concept of legitimacy that does not rest upon a dubious division of the two means Beetham's call for a practical political ethics dealing with what is legitimate in the here and now needs to be extended to include the here and now of the international arena. How does the value system, or value *systems*, of the international effect the value system, or *systems*, of the domestic and *vice versa*? Can this throw new light on important political events with both domestic and international ramifications that are inseparable, such as the collapse of Yugoslavia?

These are the main tasks of this thesis. My aim is to create a theoretical model of legitimacy that is an exercise in practical political ethics, applicable to and rooted in both domestic and international standards of what ought to be and to refine this through its application to the crisis brought about by the collapse of Yugoslavia.

Its focus is on looking beyond the institutional and procedural approach to legitimacy to the value systems which underpin them, rather than on an account and analysis of the rise and fall of Yugoslavia. This, of course, begs the question, “Why Yugoslavia?” The choice was made for a number of reasons. These include the importance of dealing with an issue involving the leading states in the world. One of the common features of the international relations/international legal literature is the stress on the importance of the leading states in establishing the framework within which others have to operate.<sup>13</sup> Therefore, the value systems inherent in the structures established by these powers need to be brought out.

This is not to suggest these value-systems are necessarily globally accepted, but, assuming the assertions about the importance of these states are correct, they are globally relevant. Yugoslavia is also a reasonably contemporary theme to test the condition of legitimacy in the here and now. It represents a series of events in which ethical issues have been prominent and which have engaged the minds of people around the world, crossing formal borders and bringing domestic issues to international prominence. There is also a reasonable availability of material.

Yugoslavia has not only raised the question of what ought to be done, the legitimacy of action, but also the question of what sort of states ought to exist, the legitimacy of this particular type of important actor. Its only main weakness as a choice for the case study of this thesis is the limited role played by economic issues, especially in the international response to Yugoslavia’s collapse.

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13 This comes through in concerns about the Security Council’s legitimacy discussed in Murphy “The Security Council, Legitimacy and the Concept of Collective Security After the Cold War.”

## 1.2 The structure of the thesis

The thesis aims to achieve its tasks in the following ways. Chapter 2 begins the process of building a theoretical model of legitimacy able to stand the test of being a piece of practical ethics and of dealing with the interaction and penetration of the domestic and the international.

This uses an approach stressing what can be called ‘dominant paradigms’. It looks at what lies behind the procedural and institutional focus of the existing literature and is aimed at understanding the development of a Western standard of legitimacy. The idea of dominant paradigms is not intended to suggest a single, rigid value-system within which judgements of legitimacy are made. Instead, they are used to try and build an ‘orthodox’ model of Western legitimacy in international relations. It is both historically specific, reflecting the distribution of power brought about by the dominance of Western Europe and North America, and evolutionary, including changing emphases within the dominant Western tradition.

Legitimacy is therefore socially constructed, changing over time and evolving to reflect changing understandings of the relationship between what is and what ought to be. The idea of evolution is particularly prominent in Wight’s work, where he traces the development of the principles on which states agree to recognise one another.<sup>14</sup>

His limitation of legitimacy solely to this sphere seems unnecessarily narrow,<sup>15</sup> but his

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<sup>14</sup> Wight, *Systems of States*, 153-73.

<sup>15</sup> “By legitimacy I mean the collective judgement of international society about the rightful membership of the family of nations; how sovereignty may be transferred; and how state succession is to be regulated ...” Ibid., 153.



evolutionary approach is reflected elsewhere in the limited literature on legitimacy, although sometimes rather implicitly.<sup>16</sup>

The concern of this work with states and international organisations points to the need to look at the states-system and its rules which have grown up over time and are designed to govern the relations of sovereign states. Bringing in the stronger tradition of the legitimacy of the right to rule raises the question of the form of those states which populate the states-system and its institutions. Rather than take a value-free, Weberian stance, I shall attempt to track the development of what has become the dominant paradigm in the Western tradition, the liberal model of the state. It will look at the interaction of these two paradigms to show up their mutual influence and point to the difficulties of steering a course between them where they might contradict one another. This will serve to outline more strongly the system within which the Yugoslav crisis erupted and thus the position from which efforts to manage it began.

The chapter also looks at the dominant value-system of the international economy. This is important because of the intrinsic importance of economics and also the way in which the development of an international economy and international economic actors is often seen as contributing to the dissolution of the domestic-international divide in international relations.<sup>17</sup> It therefore offers the possibility of being an additional way of unifying the domestic and the international, as well as bringing in a wider range of actors marching to a different tune when compared to states.

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16 “... the problem of legitimacy will be ongoing for any effort at international governance ... our diverse global community is more likely to achieve its vision of substantive justice through a process ...” Caron, “The Legitimacy of the Collective Authority of the Security Council,” 588.

17 For a powerful example of this see Martin Shaw, *Global Society and International Relations: Sociological Concepts and Political Perspectives* (Cambridge: Polity Press, 1995).

Chapters 3 and 4 look at the rise and fall respectively of the Socialist Federal Republic of Yugoslavia through this lens of legitimacy constructed from the principles of the states-system, a liberal form of the state and politics, and liberal ideal of economics. This provides the first test for the model of legitimacy by reassessing Yugoslavia's history between 1945 and 1991 in the light of its legitimation and subsequent loss of legitimacy.

This shows how it is possible to throw new light on Yugoslavia's history and thus the relevance of a concept of legitimacy that attempts to cross the domestic-international divide. It also points to the development of the relationship between the three dominant paradigms over the post-World War Two period and shows some of the ways in which locally specific legitimising factors conflict with the model of legitimacy derived for the dominant powers.

Chapters 5, 6 and 7 set the concept a stiffer test. As well as trying to understand the events and policies of those trying to manage Yugoslavia's collapse, it derives explicit policy expectations from the theoretical model of legitimacy. This tries to show how the traditional, institutional and procedural, approach of the literature on legitimacy, some of which refers to Yugoslavia's collapse, is weakened by its lack of attention to the foundations of institutional and procedural legitimacy in deeper value systems.<sup>18</sup> They finish by showing how the model developed in the thesis strengthens the possibility of using the idea of legitimacy to judge and assess policies and actions.

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18 Caron, "The Legitimacy of the Collective Authority of the Security Council," and Murphy, "The Security Council, Legitimacy and the Concept of Collective Security After the Cold War," both make use of efforts, via the UN Security Council, to manage the collapse of Yugoslavia.

This leads into chapter 8 which serves as a conclusion by setting out the implications of the case-study for the theoretical model. It also aims to summarise the benefits of treating legitimacy as a value judgement over the existing accounts of legitimacy. Finally, it suggests some of the limitations of this study and points to issues requiring further investigation.

## Chapter 2

### *Competing Conceptions of Legitimacy: building an orthodox Western model*

#### 2.1 Introduction

This chapter lays the foundations for examining the collapse of Yugoslavia and the international reaction by building a model of legitimacy as a tool for analysis. Behind this lies one fundamental assumption about the nature of legitimacy, already mentioned in chapter 1, but worth repeating. I argue it is a value judgement. Therefore it is important to consider value systems as the standards against which legitimacy is judged and measured. This will meet the goal of looking beyond the procedural and institutional focus of much of the existing work on legitimacy to consider the way in which institutions and procedures are rooted in deeper structures and systems of values. It will consider the way a structure of legitimacy which underpins institutional and procedural manifestations has developed and the constraints it sets.

Of course, value-systems are enormously diverse, with one for every member of the Earth's population as the outer limit. Therefore choices need to be made. It is both tempting and sensible to set limits on the content and extent of application of a model of legitimacy. This has clear practical advantages in terms of creating a manageable notion but suffers from the cost of risking the creation of a number of competing versions, each of which may use similar terms but mean different things by them. For



instance, the idea of an acute illness means somewhat different things to a doctor and a layman.<sup>1</sup> This happens to some extent in the existing accounts of legitimacy. Martin Wight limits the notion to the basis for recognition of states.<sup>2</sup> Inis Claude uses it to refer to the institutions and procedures which can grant collective approval to actions, in particular the role and mechanisms of the United Nations.<sup>3</sup> This line is the one followed by recent legal accounts of legitimacy. Franck takes the debate beyond the United Nations to some extent to look at the institutions and mechanisms of international diplomacy and law and the way states try to gain general approval for their actions.<sup>4</sup> Others narrow even Claude's focus to concentrate on the operations of the Security Council and its primary function as a guardian of international peace and security.<sup>5</sup>

One thing all these accounts have in common is their focus on institutions, procedures and standards which were framed principally by Western states. This offers a potentially fruitful line of inquiry. All the existing accounts are concerned with compliance with standards, the fulfilment of expectations and consistency with accepted practice. However, they do not look beyond these issues to the reasons which make compliance with existing standards important, that explain why expectations need to be fulfilled and what makes practices acceptable. They lack a

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1 To a layman an acute illness tends to mean a serious one, whilst to a doctor it is an illness that reaches its most severe point quickly, such as a common cold. Equally, a chronic illness may again sound like a severe one to a layman whilst to a doctor it is one that lasts a long time. Definitions based on *The Concise Oxford Dictionary* 8th ed. (Oxford: Clarendon, 1990), 13, 200.

2 Martin Wight, *Systems of States* (Leicester: Leicester University Press, 1977), 153.

3 Inis L. Claude, Jr., "Collective Legitimization as a Political Function of the United Nations," *International Organization* 20 (1966).

4 Thomas M. Franck, *The Power of Legitimacy Among Nations* (Oxford: Oxford University Press, 1990).

5 David D. Caron, "Legitimacy and the Collective Authority of the Security Council," *American Journal of International Law* 87 (1993). Sean D. Murphy, "The Security Council, Legitimacy and the Concept of Collective Security After the Cold War," *Columbia Journal of Transnational Law* 32 (1994).

concern with the value systems and consequent normative judgements which grant the idea of legitimacy its popular meaning and much of its potency.

Therefore, creating a better model of legitimacy which can explain the shared aspects of the existing ones requires a consideration of how value systems interact. I argue these systems are basically Western and therefore the limitations I use, instead of concentrating on recognition or the United Nations, are more geographical and historical.

The geographical limitations also relate to the case study and the need to produce a model of legitimacy appropriate for events in Europe and involving principally European powers and others within the Western tradition, such as the United States. As well as being appropriate to the case-study, this approach will also throw most light on the existing analyses of legitimacy which all stress the importance of the world's leading states, the principal source of this tradition which has largely dominated the creation of international institutions and practices. Therefore, an effort to understand the basis of these approaches to legitimacy requires a focus on the systems and structures of the Western tradition.

The historical limitations relate to the need to concentrate on building a model of legitimacy appropriate for examining the rise and fall of Yugoslavia. Therefore, it concentrates on the period since 1945, both in shifts in the balance of international politics and in terms of the value systems involved. Like the recent spate of interest in the idea of legitimacy, I will argue that events since the end of the Cold War have

been particularly significant in developing and changing the standard of legitimacy.<sup>6</sup> Wight's account of the basis of recognition of states shows the importance of changes in standards of statehood. Whilst there is not the space to trace the detailed development of a more ambitious model of legitimacy than Wight's, his historical survey is a useful reminder of the way in which legitimacy is socially constructed, and reflects the pattern of the times.<sup>7</sup> Therefore the concept of legitimacy developed by the thesis can only be a partial one. Its direct relevance must be both limited to those actors within the Western tradition and to a particular historical window.

In developing a 'Western orthodox' position, I will focus on three major issues: a Realist international system that has its roots in the Europe of the *ancien regime*; the relationship between this and a liberal conception of the state; and the growing importance of a broadly liberal ideal of the international economic order. I will also consider the ideas of the social contract and nationalism as ways to help link these three spheres together and to trace common roots and account for contradictions and divergences. This will show how making judgements about legitimacy in a Western context is a social construct, the product of a changing balance of ideas, reflecting a changing normative climate and being a practical concept.<sup>8</sup>

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6 This is pointed to by the title of Murphy's article: "The Security Council, Legitimacy and the Concept of Collective Security After the Cold War."

7 Wight, *Systems of States*, especially 153-162 for pre-World War Two approaches to recognition.

8 See above, 1.1 for Beetham's stress on these sort of issues in building legitimacy as a practical piece of political ethics.

## 2.2 The European states-system and the legitimacy of order

The birth of the modern European states-system is often dated to the Peace of Westphalia of 1648.<sup>9</sup> Westphalia helped establish many of the principles that characterise the modern, global states-system. These include non-intervention in the domestic affairs of a sovereign state, mutual recognition of sovereign equality as the basis of relations between states, and the territorial integrity of states.<sup>10</sup> To all intents and purposes this reduced the previously multi-layered structure of the international system to a single one. Only recognised sovereign states were now legitimate players on the international stage. It ended the formal power of the Holy Roman Empire and the Papacy to order territorial rulers to behave in certain ways and to interfere in their affairs.

The qualification for playing on the international stage, sovereignty, reflected the nature of the accepted players. The international system became one largely of territories governed by absolute monarchs.<sup>11</sup> They personified the sovereignty of the territory they ruled and claimed absolute rights within it. Their right to rule, the qualification entitling them to recognition by other monarchs in the system, was hereditary and rooted in the divine right of kings.

Wight traces the shift from absolutism towards a popular basis for government and how this did not involve abandoning ideas of sovereignty and territory. Indeed,

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9 e.g. Terry Nardin, *Law Morality and the Relations of States* (Princeton: Princeton University Press, 1983), 57

10 e.g. Ronnie D. Lipschutz, "Reconstructing World Politics: the Emergence of Global Civil Society," *Millennium* 21 (1992): 400.

11 Wight, *Systems of States*, 153.

territoriality remained central to the nature of statehood and the willingness of states to recognise and accept one another as legitimate members of international society.<sup>12</sup>

This historical development of principles of statehood is important to legitimacy for two principal reasons: first is the normative preference for order built into the Westphalian system; secondly it is historically prior to the development of notions of popular consent as the basis of government, which thus bear its imprint and influence. This will be dealt with in more detail below, but for the moment the concentration is on the sovereign states-system.<sup>13</sup>

The structure of the states-system is a historical product. It still reflects the concerns and needs of European rulers in the mid-seventeenth century following a period of immense turmoil and bloodshed stretching back two hundred years<sup>14</sup> and culminating in the decimation of much of Central Europe.<sup>15</sup> These concerns with order, war, peace and security continue to be important.

Westphalia reflected these needs and created the basis of the modern international order. Sovereignty, with its inevitable corollary of non-intervention,<sup>16</sup> and the doctrine of sovereign equality were established as the principles of the European states-system with the goal of order in mind. The need to avoid the turmoil of the preceding era with its disputed authorities made the creation of an anarchic system attractive,

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12 Ibid., 159-172.

13 See below, 2.3-2.5.

14 John Keegan, *A History of Warfare* (London: Pimlico, 1994), 13.

15 Geoffrey Parker, *The Thirty Years War* (London: Routledge and Kegan Paul, 1984).

16 R. J. Vincent, *Non-Intervention and International Order* (Princeton N. J.: Princeton University Press, 1974).



paradoxical though this may at first appear. The evolving normative structure of the international system - its principles of sovereignty, sovereign equality, territorial integrity, political independence and non-intervention - is designed to create order.

The goal of what today we would call an international society was built into the anarchic structure of the European states-system from its inception.<sup>17</sup> Bull's trinity of limitations on the use of violence (by constraining the permitted areas of dispute), sanctity of contract (by making the recognition of sovereignty mutual through continuing respect for the treaty), and property rights (by recognising the sole right of monarchs to rule their territory)<sup>18</sup> are at the heart of the European states-system that, since World War Two when the notion of sovereign equality was made general through de-colonisation, has provided the basis for international relations the world over. The highly conflictual and disorderly implications of an anarchic system have thus been mitigated from its inception by regulating power, security and competition in international politics.

The familiar Neo-Realist account of the way anarchic structure generates the struggle for power and security is thus useful but does not recognise the normative limits imposed by the system's order-seeking construction, whether the conflict is between Catholics and Protestants in the seventeenth century or Capitalists and Communists in the twentieth.<sup>19</sup> The structure of the states-system is not an inevitable, value-free result of independent political units denying the existence of a higher authority, but a

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17 Hedley Bull, *The Anarchical Society: a Study of Order in World Politics* (London: Macmillan, 1977).

18 Ibid., 5.

19 Kenneth N. Waltz, *Theory of International Politics* (New York: McGraw Hill, 1979).

value-laden, normative and historical product. The value of the states-system and thus its legitimacy lies in its ability to generate order.

This is implicit in the analysis of the legitimacy of the Security Council and its role in the preservation of international peace and security. The defence against radical reform rests on ensuring the Security Council's ability to fulfil its order protecting function, even at the expense of it being unrepresentative in terms of access to membership for all the member states of the United Nations.

Achievement of the essential goal of a collective security system requires that special status and special responsibilities be given to those countries who, upon the basis of their overall power, are capable of coercing behaviour ... or are capable of thwarting the actions of the system.<sup>20</sup>

This analysis falls short because it fails to appreciate that the goal of collective security through the UN represents a value judgement. This prevents it going on to consider the value-system that makes it legitimate to restrict access to the UN's most important institution, and thus the principle of representative government within the UN, which Wight argues is central to legitimising government within the state.<sup>21</sup>

Without this sort of approach, it is impossible to uncover the way the system was created as an international society in which the members have a shared interest in maintaining the rules aimed at the goal of peaceful coexistence and how these rules and this goal restrain and direct the procedures and institutions which such analysis focuses on.

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20 Murphy, "The Security Council, Legitimacy and Collective Security After the Cold War," 268.

21 Wight, *Systems of States*, 160-168 for emphasis on popular principle.

The methods of achieving order have changed, evidenced by the changing operation of the balance of power - the classic states-systemic management mechanism - and the effort to establish international institutions to manage affairs. The Napoleonic wars resulted in an effort to manage the balance of power via the Congress and Concert systems. Their failure led to the introduction of supra-national institutions, first the League and then the United Nations and especially its Security Council. All are basically aimed at managing the relations of states in the interests of order and peaceful coexistence. However, they rest on the same basic states-systemic principles created in the middle of the seventeenth century.

It is surely this sort of historical continuity in the basis of international relations which makes it possible to draw meaningful analogies between the management efforts of the nineteenth century and those of the late twentieth as Murphy does when he describes the Security Council as being a sort of 'Concert of Europe plus' system.<sup>22</sup>

The goal of order and peaceful coexistence, the product of an international society, legitimises order-seeking behaviour. It provides an international value system against which it is possible to make judgements about the legitimacy of international institutions and international practices and procedures. It is this, rather than consistency with accepted practice and the approval of majorities in the Security Council and the General Assembly, which legitimises action. Such institutional and procedural trappings are indicative, they are not the source of legitimacy and it is this mistake which undermines current analysis of legitimacy.

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<sup>22</sup> Murphy, "The Security Council, Legitimacy and the Concept of Collective Security After the Cold War," 257, 287.



Franck's approach reflects this. He builds up a useful vision of legitimacy based on rules and 'rule texts' which are legitimate to the extent they fulfil four main criteria. These are: 'determinacy', a clear rule whose formative texts are as unambiguous and complementary as possible and that also takes into account the importance to international actors (by which he means almost exclusively states, their representatives and international organisations made up of states) of the situation on the ground as 'established fact' in order to avoid obvious contradictions or absurdities. Thus the classic Realist question of, "Who's in charge?" is introduced into legitimacy. This is the pragmatic need to deal with whoever may be in power in a particular place at a particular time regardless of how distasteful it may be. The second criteria is 'symbolic validation', the extent to which a decision or action has been reached in accordance with the 'proper channels' or 'time-honoured tradition'. The third is 'coherence', or how closely the rule or act fits with precedents and accepted customs. The fourth is 'adherence', whether or not actors (i.e. states) obey the rules because they see them as essential to an underlying sense of community or society upon which co-existence rests.<sup>23</sup>

Legitimacy in these terms is a conservative principle, reflecting the conservatism of the states-systemic value of order, although Franck does not recognise this. His criteria stress the need to be in touch with the past, to validate actions and actors against expectations and existing practice. Therefore the normative vision of what ought to be rests on the perfection of what already is, the more effective operation of international society rather than its transformation into something new built on different principles. This is not necessarily surprising given the traditional legal view which sees legal systems as providers of stability and predictability to facilitate

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23 Franck, *The Power of Legitimacy*.

orderly interaction.<sup>24</sup> However, for Franck, even this limited normative vision is implicit at best. He sees legitimacy as being clouded by the introduction of value systems, despite these providing the foundations for the mechanisms which he sees as constituting legitimacy. This is best demonstrated by his effort to divorce legitimacy from justice.<sup>25</sup>

This rests on an assertion that justice only applies to individuals and as the concept of legitimacy he is developing deals with the relationships between states justice is precluded.<sup>26</sup> Some of the problems arising from this approach can be seen in the gut reaction to Franck's statement that, "...the [United Nations General] Assembly's rejection of South African credentials failed to undermine that government's status as the legitimate - not the *just*, or *best*, or *representative* - voice of the Republic."<sup>27</sup> This contradicts the strong impression that the power of the reaction to *apartheid* ultimately rested on its illegitimacy because of its unrepresentative nature, harking back to Wight's tracing of the shifting standards of legitimate statehood. The formal and blatant denial of representation results in questions about the justice of such a system.

Franck is part of the tradition that divorces the domestic from the international. This is essential if he is to succeed in keeping justice out on the basis of its being appropriate for individuals and not for states. This rests on a fallacy that states are somehow divorced from their populations. The activity of one state, one collective of

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24 I am grateful to Justin Morris for suggesting this point.

25 Franck, *The Power of Legitimacy*, 208-246.

26 Ibid.

27 Ibid., 135 (emphasis in original).

individuals, carried out through the executive agency of a smaller group of individuals, has consequences for another state and its population of individuals.

Worse than this, though, he divorces value judgements, which legitimacy must be, from value systems, something those who have followed in the footsteps of his work are clearly unhappy about. Murphy feels Franck's appeal to fair and objective judgement of the status of rules and rule texts inevitably invites a value laden approach because what constitutes fair or objective is not un-controversial.<sup>28</sup> Caron's account of the Security Council's legitimacy finishes with a conclusion which steps outside his primary focus on procedures, declaring the goal of the process to be justice.<sup>29</sup> Yet within this more textual and procedural legal approach to legitimacy the development and acceptance of ideas of *jus cogens*, laws of special significance because they provide the inescapable basis for order,<sup>30</sup> adds weight to the need to recognise order as the goal of the states-system and the value against which actions are legitimised.

In this approach the collective functions of the UN, both the General Assembly and the Security Council, are therefore more than the dances of diplomacy and the need to jump through procedural hoops to gain a mechanistic form of legitimacy. Instead, they become manifestations of a deeper international value system based on the achievement of the goal of order. This seems implicit in all the accounts of legitimacy within the more legal textual and procedural approach.

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28 Murphy, "The Security Council, Legitimacy and the Concept of Collective Security After the Cold War," 250 n. 174.

29 Caron, "The Legitimacy of the Collective Authority of the Security Council," 588.

30 Gordon Christenson, "*Jus Cogens*: Guarding Interests Fundamental to International Society," *Virginia Journal of International Law* 28 (1988).

Claude talks about the legitimacy of, “the prevailing moral code”,<sup>31</sup> even whilst he feels legitimacy to be rather vague and therefore “the nature of the process by which ... legitimacy is dispensed can be of the greatest importance.”<sup>32</sup> He stresses the political nature of legitimacy and the process of legitimation. “Collective legitimization has developed ... as essentially a political function, sought for political reasons, exercised by political organs through the operation of a political process and productive of political results.”<sup>33</sup> All this but without considering the political values that might make it possible to build the coalition necessary to successfully navigate this process. Politics, even international politics, does not exist in an ethical vacuum.

Caron begins his consideration of the legitimacy of the Security Council by linking its continued action to its legitimacy and then goes on to identify the core question faced as being the identification of threats to international peace and security and thus the need for collective action.<sup>34</sup> The link to order as the legitimising goal is made, even if only implicitly. It becomes more open as he considers circumstances under which legitimacy is questioned.

the perception of illegitimacy ... often seems to arise from a deeper criticism of the organization. Even if an organization acts in accordance with its rules, it nonetheless may be viewed as illegitimate against some broader frame of reference.<sup>35</sup>

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31 Claude, “Collective Legitimization as a Political Function of the United Nations,” 369.

32 Ibid., 370.

33 Ibid., 371.

34 Caron, “The Legitimacy of the Collective Authority of the Security Council,” 554-555.

35 Ibid., 559.

“[A]llegations of illegitimacy seem to manifest a sense of betrayal of what is believed to be the promise and spirit of the organization.”<sup>36</sup> “The failure of an institution to govern out of inability to use its authority, particularly an institution that represents or aspires to represent a system or order” can damage its legitimacy.<sup>37</sup> Unfortunately, these hints at a deeper basis of legitimacy are not explored properly as Caron goes on to consider the allegations of illegitimacy in terms of procedures that allow a few states to dominate the Council and whether granting a veto to the Permanent Members is particularly iniquitous.<sup>38</sup> This links to arguments about the nature of international leadership and the way domination of an institution increases the risk of defection by undermining the perceived legitimacy of those trying to exercise leadership.<sup>39</sup>

Murphy gets closest to the target of a value-based version of legitimacy when he discusses the role of the Security Council as a representative of the “global community”, by which he means the community of states.<sup>40</sup> Murphy shifts approaches to the question of the legitimacy of the Security Council by considering the source of the authority of its action, arguing this can be as a representative of the global community, or as a mandating authority for major power action, or as an instigator of special commissions.

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36 Ibid.

37 Ibid., 560-561.

38 Ibid., 562-588.

39 Andrew Fenton Cooper, Richard A. Higgott, and Kim Richard Nossal, “Bound to Follow? Leadership and Followership in the Gulf Conflict,” *Political Science Quarterly* 106 (1991).

40 Murphy, “The Security Council, Legitimacy and the Concept of Collective Security After the Cold War,” 204-206, 208-222.



The first of these is most interesting from my point of view because it implies there is a sense of community amongst the states of the world and therefore there must be shared values and goals to create that sense of community. Murphy argues accusations of illegitimacy against the Security Council are strongest in this area and warrant limited reform of the Council. However, this is on the basis of representation and the need to establish the right procedures to allow greater input for non-members, rather than more profound questions of a disagreement about the goals of the Security Council in pursuing collective action. The Charter target of international peace and security is neither questioned nor, more significantly, examined to see why it is so uncontroversial and so central to the ability of the Security Council, and indeed the UN as a whole, to attract legitimacy.

Looking seriously at the framework of the states-system as a historical and normative product designed to create an international society aimed at order produces a deeper understanding of the operations and institutions focused on by the legal approach to legitimacy. It also restores to legitimacy some of its popular connotations and provides stronger foundations for normative explanations of legitimacy.

Wight's account of legitimacy is less guilty of the failure to consider underlying principles. His discussion deals with the historical transition from a medieval feudal order to the popular principle and its augmentation by territorial vicinity resulting from de-colonisation and the triumph of the ideal of national self-determination.<sup>41</sup> The limitations of this approach result from the overly narrow concern with legitimacy as being only the basis upon which states recognise one another.<sup>42</sup> This has the advantage

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41 Wight, *Systems of States*, 153-172.

42 Ibid., 153.

of limiting the concept's scope but the disadvantage of divorcing it from wider questions of the values of the states-system and in particular the goal of order which provides the core of its ability to legitimise.

The basis of recognition is part of that goal because it grants membership of the states-system admitting a state to the rights and privileges, constraints and expectations that are part and parcel. Wight does not go beyond admission to the society of states to see what happens once membership has been gained.

The idea of order as a prior value in international relations is hardly a new one. Hedley Bull's account of the need for order as prior to the attainment of justice and John Vincent's defence of the principle of non-intervention in the name of order are just two of the better known examples.<sup>43</sup> Other Realists have made similar points such as Morgenthau's emphasis on prudence as a virtue among statesmen.<sup>44</sup> Debates within Realism about the ability of the management mechanism of the balance of power to generate order and which sort of balance can do this most effectively are also familiar.<sup>45</sup> The source of the priority attached to order, the source of its legitimacy, has been less widely agreed on: the prudence of statesmen as one possible source;<sup>46</sup> the need for states to agree rules of co-existence within anarchy as a second; and a systemically determined requirement resulting from the distribution of capabilities within the system as a third (Morgenthau, Bull and Waltz respectively).

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43 Bull, *The Anarchical Society*, 77-101. Vincent, *Non-Intervention and International Order*.

44 Hans J. Morgenthau, *Politics Among Nations*, 5th ed. (New York: Knopf, 1973).

45 e.g. Waltz, *Theory of International Politics*, 102-129.

46 For a recent example of this see Robert H. Jackson, "The Political Theory of International Society," in *International Relations Theory Today*, ed. Ken Booth and Steve Smith (Cambridge: Polity, 1995), 110-128.

This suggests a problem over cause and justification in relation to order, pointing to one of the reasons for confusion about legitimacy. For Morgenthau, order is the product of prudent statecraft, thus the prudent statesman or woman is legitimate. For Bull and Waltz, however, order is at least in part externally determined and its legitimacy comes via reference to the norms of international society, for Bull, and its ability to contribute to state security, for Waltz. Statesmen and women are thus required to act in ways commensurate with the preservation of order. There is an overlap between the two - imprudent statecraft can threaten the wider systemic basis of order - but the distinction shows one way in which the international and the domestic are umbilically linked with the potential to influence the issue of legitimacy in both spheres.

This analysis of the states-system attempts to isolate order as a legitimate value within the structure of the states-system by stressing the normative character of that structure. It was created and, as Adam Watson has shown, it is an unusual creation in the history of systems of independent political units.<sup>47</sup> Clearly a system of inflexible and iron bonds on states would not have been able to survive the dramatic and fundamental changes in the character of the units and the operation of relations between them. The flexibility of the understanding of statehood within the principles of the states-system is one of its most remarkable features, so remarkable that Wight concentrates almost exclusively on it as providing the basis of legitimacy. Because of this flexibility, the system has been able to retain its basic principles during the shift from absolute monarchies to states based, at least formally, on the consent of the

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47 Watson, *The Evolution of International Society*, 251.



governed; the rise of nationalism; the proliferation of states following the collapse of empires; and the development of an international economy.

This highlights the importance of order as a value, its prior status and the importance of the states-system in providing it in the absence of an over-arching authority able to govern. In terms of the legitimacy of action and actors in international politics, their ability to contribute to the preservation and preferably furtherance of international order is crucial to their legitimacy. This is the foundation upon which institutions and procedures are built. The basis of their legitimacy lies in their contribution to the preservation of order, even if this, for the West at least, is not the sole criteria.

Having commented on the states-system's ability to contain a remarkable transformation in the nature of statehood, and its ability to incorporate this into notions of what constitutes a legitimate state, it is time to consider this in more detail. The purely international approach of the primarily legal accounts of legitimacy must give way to an account of the changing nature of statehood. Whilst Wight looks at the problems created by the rise of the popular principle of legitimate government during the nineteenth century and, in particular, the difficulties of national self-determination in the post-World War Two era, there is a need to go further. Wight explains the difficulties created in the area of minority rights, for example, and the way self-determination has become a conservative principle linked to territorial integrity.<sup>48</sup> My task is to try to understand the way in which the popular principle and self-determination are linked to the development of the Western tradition and how this principle of legitimacy extends beyond the basis for mutual recognition of states. This will provide a deeper examination of the links between domestic political structures,

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48 Wight, *Systems of States*, 168-172.

or at least the principles supposed to underpin them, and the operation of a states-system which legitimises the pursuit of order.

The use of dominant paradigms in the construction of a 'Western orthodox' model of legitimacy and the rise of the popular principle means it is necessary to look at the basis for Western acceptance of the need for popular participation in government. This points to the device of the social contract which, as I hope to show, not only provides the basis for the liberal democratic form of the state, but also bears the imprint of the states-system and has useful things to say about why there is often a division between accounts of domestic and international spheres of politics, such as that in Franck.

This is not to suggest the Western tradition provides the only basis for political systems, Wight's comments on self-determination point to some of the difficulties of linking them to non-Western traditions. However, the goal of this chapter is to develop a Western orthodox model of legitimacy and therefore it is important to deal with these sort of issues here.

### 2.3 The social contract and the domestic-international divide

Traditionally, political theory and international relations theory have remained separate except for the occasional approving quotation by Realists of Hobbes' comment about life in the state of nature being 'solitary, poor, nasty, brutish and short.' Hobbes, however, is also important for providing a classic statement of the social contract tradition that can be traced though Western political theory to the

present day.<sup>49</sup> In this tradition the creation of the state and its institutions aims to fulfil certain social goals. These regulate and limit the conduct of individuals in the interests of the greater good and at their most basic focus on issues such as limitations on the use of violence, respect for agreements and rights over property.<sup>50</sup> The Hobbesian social contract leads to an all powerful leviathan, but for others, such as Locke, a more restricted social contract provides the basis for the development of the politically liberal tradition that has come to provide an orthodoxy in modern thinking about legitimate forms of the state in the Western tradition.

The idea of the state as contract emphasises each individual expects to get certain benefits from joining. Each is entering a relationship with all other members of the state and with the state's institutions. They place themselves under obligations to abide by the rules of the contract and in return they will have their rights respected by other individuals and receive protection from the state against those who attempt to breach them. The individual is the basic unit of analysis and the state exists to protect and enforce the rights and duties of the individual. The state owes its existence to the individuals who comprise it and they are therefore the source of its sovereignty. The state is a 'bottom-up' creation brought into existence by its population; it is also a purposive association, it exists to provide a secure environment within which individuals can act.

Whether or not this is an accurate reflection of the state formation process is not important. The social contract provides a useful way of thinking about the relationship of the state to its citizens, one with considerable contemporary potency.

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49 Michael Lessnoff, *Social Contract* (London: Macmillan, 1986), 45.

50 Bull, *The Anarchical Society*, 4-5.



This has been most explicit in the United States where the Republican Party campaigned on the basis of a 'Contract with America' in the 1994 mid-term elections. It can also be seen in social democratic thinking. Will Hutton declares one of the tasks of a revitalised social democratic left is to "re-write the contract between the members of ... society".<sup>51</sup>

The legitimacy of government thus rests on its ability to serve the people who are the basis of its sovereignty. Government and indeed the state as a whole, is a servant of the population, protecting the individuals rights and privileges and promoting their interests. This provides the underpinnings for Wight's arguments about the rise of the popular principle to prominence in decisions about the recognition of states during the late Eighteenth and early Nineteenth Centuries - a position it has never lost, despite the often limited respect it has received in practice.<sup>52</sup>

One reason for this, and one which shows the interaction of the states-system and the rise of liberal political ideas, is the question of effective control of territory.<sup>53</sup> During the order-dominated Cold War the dangers of war created by a lack of effective territorial control enabled many repressive regimes lacking any convincing expression of popular support to maintain international acceptance. In Wight's terms, their legitimacy can be seen to rest on a calculation by the other members of the international club of states that their continuation in power is legitimate because of their continued respect for the principles of sovereignty, territorial integrity and non-

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51 Will Hutton, *The State We're In* (London: Jonathan Cape, 1995), 10.

52 Wight, *Systems of States*, 160-172.

53 Effective control is one of the four criteria for recognition in the 1932 Montevideo Convention. Hurst Hannum, *Autonomy, Sovereignty and Self-Determination: the Accommodation of Conflicting Rights* (Pennsylvania: Pennsylvania University Press, 1990), 116.

intervention, something in their interest as a way of repelling unwanted attention on their style of government. Considering the basis of sovereignty, territorial integrity and non-intervention in the value of order, we can add to this by being explicit about the contribution of international order to the toleration of such regimes. Whilst such arguments can be criticised as examples of the cynicism and hypocrisy of international politics, using an approach to legitimacy stressing the importance of order as the legitimising value of the states-system re-connects such arguments to the question of the relative importance of order and form of government in legitimising states and their regimes.

Thus the popular principle has proved open to corruption and manipulation. Full compliance with it certainly does not provide a fair and true description of the basis for recognition of states. Whilst it is easy to declare this to be an inevitable part of the cynical business of politics, there are deeper reasons which help us to understand the difficulties, even in the Western heartland of the tradition, of shifting the standard of legitimacy away from the politics of absolutism and dynastic legitimacy to a politics based on the popular principle.<sup>54</sup> One of these is the need for order in potentially unstable times, but others go beyond this, deriving from the interaction of states-systemic principles and liberal political ideas, not just the need to preference the former over the latter in certain circumstances.

The contractual requirement for the state to provide a secure environment clearly includes defence against external attack. The problem of reconciling the need for a strong state to defend itself against external attack with the light domestic regulatory hand of the Lockean contract has never adequately been resolved. This can be seen in

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<sup>54</sup> Wight, *Systems of States*, 157-160 for recognition on the basis of dynastic legitimacy.

modern analysis of international politics where the ideas of different rules for the domestic and international scenes are not unusual. For example, Morgenthau's inclusion of ideas of morality in his six principles of Realism rests on the creation of a form of state morality, different to that which applies among individuals inside the state and resting on this need to ensure survival.<sup>55</sup>

The doctrine of state as contract creates common ground between the international politics of order, power and security and the domestic politics of popular participation. This bridges the divide between them and links their legitimising value systems. Because each state is the product of a contract among a group of individuals no state can claim to be morally superior to another, the basis of sovereign equality. Along with each sovereign being recognised as holding the monopoly of the legitimate use of force - to protect the rights of the contracting individuals within his or her territory - they also have the right, or even the duty, to employ force externally in pursuit of the interests and security of their population. This helps underpin the Realist assumption of states as unified actors. There is thus a tension between the modern manifestations of the Lockean and Hobbesian notions of contract which exist and operate side by side, providing the basis for disputes over the relation of the political form of the state and its legitimacy in the eyes of the states-system.

The importance of this contractual dispute reinforces the need to portray the states-system as a historical and value-laden construct, reflecting the passage of European history and the structure of European societies and their political thought. These create value systems which constrain action and enable judgements of legitimacy to be made, especially in relation to the actors most closely tied to the Western tradition

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<sup>55</sup> Morgenthau, *Politics Among Nations*, 4-15, especially 10-11.



and which proclaim themselves to be concerned with these sorts of rules of behaviour. The situation is difficult and potentially contradictory. The enduring Realist features of international politics and the continuing importance of questions of power and security are rooted in the structure of the states-system.<sup>56</sup> The legitimacy of the behaviour to meet the challenges of these enduring realities is therefore also rooted in the states-system and its value of order, reinforced by the need for a government to protect the existence and interests of the state in the name of protecting its population.

One of the features of European politics until this century was the very limited involvement in international affairs by anybody other than tiny political elites.<sup>57</sup> This seems to have helped insulate the principles of the state-system from the effects of a radical transformation in the understanding of the basis of the state and the way domestic politics should be conducted. The power of the domestic-international divide means that in many ways we still work within the states-system created to serve the needs of absolutist monarchies. Indeed, the states-system may well be the last and greatest legacy of the *ancien regime*.

Therefore, Wight's account of the development of the basis for recognition fails to bring out the historical continuity across the eras he identifies from the creation of the European states-system onwards. His is a story of shifts and divisions. Instead each era leaves an inheritance for the next and the existence of the states-system becomes a constant.

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<sup>56</sup> This argument is most famously, and starkly, made by Waltz, *Theory of International Politics*.

<sup>57</sup> E. H. Carr, *The Twenty Years Crisis, 1919-1939: an Introduction to the Study of International Relations*, 2nd ed. (London: Papermac, 1981), 1-2.

The Western idea of state as contract has implications for non-European states and this can be seen in the difficulties Wight identifies with the post World War Two system of legitimate statehood based on territoriality and the popular principle modified by the doctrine of national self-determination.

The popular principle based on contract provides justification for the pursuit of interest in a states-system characterised by anarchy. The centrality of territory to statehood - in part a legacy of the absolutist age in part reinforced by the modern notion of territorial vicinity - establishes identifiable physical boundaries to the community created by the social contract. This is exacerbated by the idea of national self-determination and the embodiment of the nation in the territorial state. The popular principle can become majoritarian rule and the territorialisation of nation via self-determining states - the trends Wight identifies in the era of de-colonisation.<sup>58</sup>

Uncovering the roots of this sort of system in the states-system and ideas of contract, as well as notions of the liberal state and nationalism,<sup>59</sup> makes it possible to reach conclusions about the legitimacy of actors and actions that go beyond judging the basis of recognition, and also beyond simply asking whether or not recognition is legitimate because a certain set of criteria have been fulfilled, institutions satisfied and procedures followed. This is most applicable in the West where these deeper value systems and structures are most firmly embedded.

This value-system based approach not only brings out the foundations of accounts of legitimate statehood or the legitimacy of the Security Council's actions, it begins to

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<sup>58</sup> Wight, *Systems of States*, 168.

<sup>59</sup> See below, 2.4 - 2.5.

restore the critical power of legitimacy, to allow an explanation to go on to ascribe the value of legitimacy, rather than the procedural tag.

This will hopefully come out more clearly in the assessment of the international community's efforts to manage the collapse of Yugoslavia, where Western values and actors were extremely prominent.<sup>60</sup> In the meantime, the task of digging out the foundations of a 'Western orthodox' model of legitimacy must continue. Having considered the legitimising value of the states-system in order and the legitimising value of the social contract in the popular principle, it is time to look at the dominant Western manifestation of the popular principle, the liberal state.

#### 2.4 Liberal politics, states and legitimacy

**T**he idea of the liberal state has become an orthodoxy in Western politics.<sup>61</sup>

Whilst this is not the place to present a thorough going critique of the liberal conception of the state, it is necessary to examine some of its basic principles in order to understand the relationship between a liberally conceived state, the states-system and a Western model of legitimacy. It bears repeating that the idea of liberal state forms is being used as a 'dominant paradigm' rather than the only possible way of thinking about legitimate states.

The most important tenet of liberalism is the freedom of the individual within the rule of law.<sup>62</sup> Building on the contractual approach to the state, liberalism posits the

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60 See below, chapters 5, 6 and in particular 7.

61 Chris Brown, "'Really Existing Liberalism' and International Order," *Millennium* 21 (1992): 314.

62 This point is made repeatedly in John Gray, *Liberalism* (Milton Keynes: Open University Press, 1986).



minimum role of government as being to guarantee the maximum amount of liberty for each individual commensurate with its equitable distribution. For what Gray calls ‘classical’ liberals government establishes, monitors and enforces the framework within which the individual is free to do as he or she wishes.<sup>63</sup> The restrictions are largely negative: they require individuals to refrain from doing things, such as killing one another, stealing property or breaking agreements, rather than imposing positive duties on the citizen. The state is a voluntary association, entered into because of the advantages it offers over the state of nature, and as a voluntary association the state has no right to compel its citizens unless they breach the negative laws governing peaceful coexistence. Therefore, each individual remains the ultimate arbiter of his or her own fate, pointing to another basic tenet of liberalism, the self-ownership of the individual.<sup>64</sup> Citizens cannot be bought or sold as property because this breaches the fundamental principle of self-ownership. The relationship of the state with the individual defines its legitimacy.

There are some parallels between the freedom of the individual in a classical liberal state and the position of the state in the states-system. Self-ownership can be seen as analogous to sovereignty. Joining the state for the benefits it offers in terms of security is like the accession of the state to international society with its benefit of order. The negative nature of restrictions are also parallel; such as not killing one another and not invading one another. The relationship of the state to the states-system, especially the recognition of its sovereignty, determines the legitimacy of the state.

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<sup>63</sup> Ibid., 16-26.

<sup>64</sup> Ibid., 62-72.

These analogies are powerful contributors to Realism's tendency to ascribe to the state characteristics of an individual and view the states-system as like that of the primitive state of nature for individuals. These analogies also show how structural principles of the states-system are closely tied to a historical and philosophical tradition.<sup>65</sup> The social contract creates the over-arching authority of the sovereign domestically, establishing the basis of order. Internationally, the principles of the European states-system do not create over-arching authority but they do establish basic rules and principles of conduct as the basis for peaceful co-existence and order.

For classical liberals, the minimal state provides true freedom because it allows individuals' more noble instincts to develop, free from basic worries about survival and the danger of attack. A liberal state creates true equality of opportunity for every individual opening the way for progress towards the full flourishing of man's rationality, reason and artistry. At this point there is a division between classical liberals and revisionist liberals.<sup>66</sup>

Revisionary liberalism challenges the purely negative role of the state, arguing those less well off in society, including those who are victims of past injustices, must be helped to be free. The distribution of opportunity is uneven and the state must play its role in redistribution to give everybody a fair chance at success. This sort of argument underpins the provision of state schools to ensure everybody has a basic education enabling them to play an effective role in society; state health care to ensure basic

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65 Friedrich Kratochwil, "The Embarrassment of Changes: Neo-Realism as the Science of *Realpolitik* Without Politics," *Review of International Studies* 19 (1993): 63-80. Watson, *The Evolution of International Society*, especially 120-125, 313-315.

66 This is typified by T. H. Green but with the origins of the division dating back to the work of Jeremy Bentham. Gray, *Liberalism*, 28-30.



fitness for work and life; welfare provision to provide those who have very little with a basic stake to play the poker game of liberty.

Again, there are some powerful parallels to be drawn between the revisionary liberal view of the state and international relations in the demands for distributive justice by the Third World states and the calls for a New International Economic Order including the view that the West owes the Third World compensation for the injustice of colonialism. Perhaps most interesting is the way in which the Third World states placed this within a framework which stresses sovereignty and non-intervention. This invites analogies between these constitutionally limiting principles of the international system and the principles of inalienable freedoms based on self-ownership (which is like sovereignty) and individualism (which is like non-intervention).

There is a chasm between the Hobbesian contractual view of the state with its emphasis on the need for individuals to bind together in submission to Leviathan in order to escape the state of nature and the Lockean contractual view of the state as maintaining a liberal order of maximum liberty equally distributed. The means of restraining government is thus a central concern of liberalism with constitutional guarantees, a separation of state powers between different institutions, and a series of checks and balances becoming standard features of liberal states.

The importance of this for building a model of legitimacy is that both modern Western liberalism and the international system of sovereign states can be seen as sharing a common basis in a contractual view of the state. It is also indicative of the mutual influence of the two sets of ideas and how, by treating states as like

individuals when operating in the international arena, a somewhat shaky reconciliation has been achieved. The rights and duties of the individual and the ruler are, however, radically different under these two conceptions, helping explain the misleading nature of reification and analogies with the individual.

From the international point of view, the state has an absolute right to do whatever is necessary to maintain itself as the only means to avoid a return to the state of nature and as the manifestation of the purposive association generated by contracting individuals. Legitimacy is vested with the state as an institution.

Within this, the state has come to be seen domestically in Lockean contractual terms, implying a liberal view of the state. The classical liberal state is a minimal institution, placing as few restraints as possible on the freedom of the individual, and a revisionary liberal state incurs positive duties in the name of greater freedom for all. Legitimacy is thus determined in relation to the individual. The international system sanctions an absolutist monarchy; liberalism a constitutionally limited, consensual and popularly accountable democracy.

The implications of this are not the division of the two spheres of activity and the application of one model of legitimacy at one level and another at the other, especially for Western states. The power of the popular principle has already been pointed to,<sup>67</sup> the liberal model has also crossed the border into international politics in the form of the most important operational principle of accountable and limited government - representation.

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<sup>67</sup> See above, 2.3.

This comes out most clearly in the institutional aspects of international politics. The issue of the legitimacy of the Security Council and the ability of the United Nations as a whole to legitimise international actions focuses on the representativeness of these institutions. Murphy's defence of the existing arrangements on the Security Council nevertheless allows for some criticism when the Council is acting as the voice of the global community.<sup>68</sup> His remedy for what he sees as partially justified criticisms of the legitimacy of the Council is greater involvement by states able to meet the needs of Security Council action.<sup>69</sup> This is in order to address justifiable concerns about the institutionalisation in the Permanent Member system of the idea that some states are worth more than others.<sup>70</sup>

Similar concerns are reflected by David Caron. His slightly more radical look at the Security Council focuses on the need to improve its representativeness of international society via greater involvement and consultation with the General Assembly.<sup>71</sup> He also stresses the need to deal with what he describes as, "the reverse veto" whereby Permanent Members can block or prolong action by stopping changes to, or termination of, previously approved actions.<sup>72</sup> Therefore, the concern with the legitimacy of international institutions reflects Western-based understandings of legitimate political authority being limited, accountable and representative.

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68 Murphy, "The Security Council, Legitimacy and the Concept of Collective Security After the Cold War," 205-206.

69 Ibid., 287.

70 Ibid., 252.

71 Caron, "The Legitimacy of the Collective Authority of the Security Council," 566-576.

72 Ibid., 577-588.



For states which do not share this approach to their domestic political systems, this has nevertheless been a useful stick with which to attack perceived Western dominance of the UN. Concerns about making the UN more representative have also created concern among Western States, especially the US, that their interests will be damaged through domination by the greater number of Third World states.<sup>73</sup>

Therefore issues of representation and collective approval of actions make it into the international arena.<sup>74</sup> For states whose political systems rest on foundations outside the Western tradition this may be politically convenient, a reflection of the idea of the state as embodying a territorially defined majority national community and pursuing its interests. However, for Western states, this sort of liberal penetration of the states-system seems to cause genuine concern and difficulties. As Claude points out, statesmen and women do not generally like to work on the basis of raw power and much prefer their actions to appear as the operation of legitimate authority.<sup>75</sup> For Western statesmen and women the representative aspects of international organisations can therefore be expected to be important because of their links back to the legitimising framework of liberalism which underpins the state which they lead.

The different understanding of the distribution of state rights domestically and internationally and the practical difficulties this can create hints at a potentially fundamental dispute between liberal political ideas and the principles of the states-system as they operate to underpin Western legitimacy. It may also suggest one of the

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73 Thomas M. Franck, "Of Gnats and Camels: Is There a Double Standard at the United Nations?" *American Journal of International Law* 78 (1984).

74 This is the centre piece of Claude's account of the legitimising role of the UN. Claude, "Collective Legitimization."

75 Ibid., 368.

reasons why ascribing legitimacy is so difficult even within the orthodox, Western tradition. On the one hand, liberalism is individualistic, “Individuals have rights and there are things no person or group may do to them (without violating their rights),” says Robert Nozick, a modern classical liberal.<sup>76</sup> These rights are universal and a product of membership of humanity. In Realist approaches to the states-system, however, the rights of the individual are secondary and result from membership of the state that protects them from the outside world. Rights are thus the result of membership of a political community. Chris Brown has used this distinction between cosmopolitanism and communitarianism to suggest a fundamental and irreconcilable distinction between schools of theory in international relations.<sup>77</sup>

This tension need not be destructive. It may indeed be highly creative. The prospect exists of greater humanity becoming a feature of Western-led international relations under the impact of social and political pressures from within liberally conceived states for liberal values to be more prominent and to receive greater protection at the international level. Indeed, Franck has written of an emerging international legal right to democratic governance.<sup>78</sup> Liberal concerns are poking through into the states-system, altering the understanding of the basis of order and thus how states can seek to legitimise themselves and their actions by reference to their contribution to international order. International law bears witness to this with the growing body of

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76 Robert Nozick, *Anarchy, State and Utopia* (Oxford: Basil Blackwell, 1974), ix.

77 Chris Brown, *International Relations Theory: New Normative Approaches* (Hemel Hempstead: Harvester Wheatsheaf, 1992), 21-106. For a commentary on this approach to theory see Steve Smith, “The Self-Images of a Discipline: a Genealogy of International Relations Theory,” in *International Relations Theory Today*, ed. Booth and Smith, 9-11.

78 Thomas M. Franck, “The Emerging Right to Democratic Governance,” *American Journal of International Law* 86 (1992): 46-91.



international humanitarian law, especially within conflict situations,<sup>79</sup> and the recognition that the individual, as well as the state, can be a subject of international law.<sup>80</sup> There is growing concern about the implications of internal conflicts for international peace and security. Good governance criteria are being built into Western governments' aid programmes. Even one of the traditional criteria of sovereignty, the state's monopoly of the use of violence, is under attack with growing concern about the use of force against domestic political opponents. Ideas of humanitarian intervention are more prominent now than ever before.<sup>81</sup>

These are principally Western concerns, reflecting a Western model of legitimacy. The ability of this approach to politics to gain wider legitimacy rests on the extent to which the consensus on the underlying value systems can be extended. This is harder than simply getting the issues on the agenda and being able to build an international coalition behind an issue. The difference between leadership and simply being the leading power can be considerable.<sup>82</sup> Certainly, trying to make acceptable the pragmatic need for coercive power and the inevitability of some states being more important in international politics than others forms a significant part of the analyses of the legitimacy of the UN.<sup>83</sup> This rests much more on pragmatism and the need for

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79 e.g. Theodor Meron, "War Crimes in Yugoslavia and the Development of International Law," *American Journal of International Law* 88 (1994): 78-87.

80 Franck, "The Emerging Right," 50.

81 e.g. Adam Roberts, "Humanitarian War: Military Intervention and Human Rights," *International Affairs* 69 (1993). David Fisher, "The Ethics of Intervention," *Survival* 36 (1994). Malvina Halberstam, "The Copenhagen Document: Intervention in Support of Democracy," *Harvard International Law Journal* 34 (1993).

82 For an interesting discussion of this see Cooper, et al., "Bound to Follow?"

83 Caron, "The Legitimacy of the Collective Authority of the Security Council." Claude, "Collective Legitimization." Murphy, "The Security Council, Legitimacy and the Concept of Collective Authority After the Cold War."

effective institutions than it does on establishing genuine consensus around the Western model of legitimacy.

Within the Western tradition the need for liberalism to seize control of a state in order to be effective on the international stage is an example of the power of the states-system. As Martin Shaw points out, “The fates of theoretical concepts in the social-sciences are intertwined with the development of historical reality.”<sup>84</sup> The historical development of the criteria for identifying legitimate rulers, from divine right monarchs towards leaders as spokesmen and guardians of the will of the people they represent, has provided one way in which liberalism’s values have penetrated the states-system.

This can be seen in the modification of the classic Realist goal of the protection of the national interest defined in terms of politico-military power and measured by the state’s position relative to its main rivals. The national character - values, beliefs, principles, expectations, culture and heritage - has become as important as territorial integrity. The national interest has become less mechanistic and more emotional, both straining and being constrained by the states-system. The system that has emerged is a product of both. The membership qualification has shifted in a liberal direction, but the nature of action after admission continues to be along broadly the same lines of the old model. The unstoppable force of liberalism met the immovable object of the international system: the force stopped and the object moved.

The resilience of the state system will temper the tendency of this to result in some form of global government taking government away from the people and accelerating

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84 Martin Shaw, “Global Society and Global Responsibility,” *Millennium* 21 (1992): 421.

the cultural and political homogenisation of the world. It also allows for the manipulation of politically liberal goals and symbols in the interests of power and security. Sovereignty may increasingly be under attack but it retains great power as a symbol of a political community and its right to control its destiny. This is not simply the result of the potential dilemma over the cosmopolitanism of liberalism and the communitarianism of Realism, but includes the power of nationalism, something linked to both camps.

### 2.5 Nationalism and legitimacy

The relationship between the states-system, nationalism and liberalism is a deep and complicated one. My goal is limited to trying to show how nationalism impacts on the emerging model of legitimacy and the way this helps us understand the framework within which the Yugoslav crisis, and efforts to manage it, evolved. This involves looking firstly at the link between nationalism and the liberal state, and secondly between nationalism and the states-system. In doing this, it should become clear how nationalism provides a further bridge between the domestic and the international and also how nationalism injects powerful contradictions and dilemmas into the Western model of legitimacy.

Nationalism, of course, is a difficult concept. There is not the space here to provide a detailed examination of the many roles nationalism plays and the wide-ranging debates about its nature. There are perhaps three main schools of nationalism, emphasising philosophy, history and economics respectively.<sup>85</sup> What they have in

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85 e.g. Elie Kedourie, *Nationalism* rev. 3rd. ed. (London: Century Hutchinson, 1985), Anthony D. Smith, *National Identity* (London: Penguin, 1991) and Ernest Gellner, *Nations and Nationalism* (Oxford: Basil Blackwell, 1983).



common is the importance of nationalism to the nineteenth and twentieth centuries and its basis as a form of identity. It is this idea of collective identity which is most useful for building a model of Western legitimacy, even one limited to the post-World War Two period, which aims to understand the structures which constrain actors and which underpin institutions and procedures. National identity as a motivator of actors and a political value to be protected and pursued are undoubtedly immensely important in politics and central to the collapse of Yugoslavia.<sup>86</sup> The appeal to ‘the nation’ is a common way in which actors attempt not just to gain compliance with their actions, but to legitimise them. Nationalism in this thesis needs to be seen in this limited light, as a form of identity creating competing value-systems and thus threatening to undermine efforts to adopt a consistent position in terms of legitimising states and actions.

Within this stress on nationalism as a form of identity, it is necessary to draw a common distinction, between what can be called a ‘civic-territorial’ and ‘ethno’-nationalism.<sup>87</sup>

Briefly summarised, civic-territorial nationalism rests on shared pride in the achievements of one’s fellow countrymen, often in the building of liberal monuments such as government within the law, popular political participation, respect for the rights of individuals and the freedom to fulfil potential. Political systems such as the United Kingdom and, in particular, the United States, whose achievements rest on the work of people from all over the world, seem to show how national identity need not mean a loss of individuality or an enforced homogenisation. National identity, that

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<sup>86</sup> See below, chapters 3 and 4.

<sup>87</sup> Smith, *National Identity*, especially 20-45, 71-122.

which needs to be protected from external threat, reflects the achievements and culture of the people who inhabit the territory; national identity comes through citizenship. This fits well with the individualist, rationalist emphasis of liberal political ideas, rooted in a Lockean social contract.

This contrasts with a national identity stressing an exclusive, closed, family-like community based on ethnicity, language, religion and territory. This sort of earthier, more instinctive 'blood and soil' nationalism is often the result of communities struggling to maintain an identity during long periods of oppression. Here the individual is not an autonomous member of a territorially bounded civil society but is defined by their membership of an exclusive community which gives them their identity through the preservation of cultural, linguistic and religious tradition. History is enormously important and the great events, often defeats, in an ethno-nation's past are touchstones of identity. This makes the occupation of the land where the nation's blood was spilled, or its historic freedom rubbed out or its glorious rise to freedom won, extremely important.

In the Western tradition, nationalism, especially in its ethnic form, causes great problems for liberal political forms. Nationalism as a form of identity undermines the idea of the abstracted individual behind the social contract and the cosmopolitanism of liberalism. Instead it creates ideas of community and belonging which underpin communitarian ideas of individuals as being products of the society they inhabit.<sup>88</sup> The nation becomes the well-spring of all that is good in human life and the achievements that set us apart from animals: language, culture, diverse civilisations and so on. Humanity is divided into nations providing individuals with their identity.

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88 Brown, *International Relations Theory*, 52-81.



In terms of legitimacy, the value-system against which this value-judgement is made becomes specific to each national group. The liberal ideal of universal human rights, for instance, or universal principles of justice, rooted in our value as human beings, can be undermined. An example of this can be seen in the criticisms made of Rawls' efforts to establish a theory of justice including the notion of the veil of ignorance in which individuals are abstracted from their social milieu.<sup>89</sup>

Despite this, nationalism, regardless of its form, has an important role in liberalism as a source of identity. The practical difficulties of world government render it essential to identify smaller groups of people who should rule themselves via the mechanisms of the liberal state. Common identity through a shared sense of nationhood provides a potentially excellent, because popularly acceptable, way of making these divisions. The parallel rise of nationalism and liberal political ideas in the nineteenth century can perhaps be seen as mutually complementary in this way. Certainly, famous arguments from liberals such as Mazzini and Woodrow Wilson about the need for contented, self-ruling, nationally defined states as a key bulwark of peaceful international relations would lend weight to this suggestion.<sup>90</sup> Eric Hobsbawm argues that nationalism and liberalism began to depart from one another, or at least to lose an easy coincidence of interest, with the rise in the later nineteenth century of a more ethnically defined nationalism and the growing assertion of the imperative for sovereign independence, rather than autonomy, for each and every nation.<sup>91</sup>

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<sup>89</sup> Lessnoff, *Social Contract*, 130-148.

<sup>90</sup> For a critical survey of the early development of nineteenth century nationalism, its association with liberalism, progress and peace see Eric Hobsbawm, *The Age of Capital, 1848-1875* (London: Weidenfeld and Nicholson, 1995), 82-98.

<sup>91</sup> Eric Hobsbawm, *The Age of Empire, 1875-1914* (London: Weidenfeld and Nicholson, 1995), 142-144.

Nationalism and liberalism are therefore connected, and not necessarily contradictory, but the problems created by this connection can be acute. The cosmopolitan, liberal desire to treat people and their contracting communities as equal wherever they may be comes into conflict with an approach to identity which can exclude others and create powerful motivations for treating those outside the nation differently. The relationships between individuals and their nation, and between one nation and another become fraught with difficulty for those trying to pursue actions legitimised by reference to a value-system importantly influenced by liberal political ideas. When, if at all, do the rights of the group trump those of the individual? Is it reasonable to treat a self-identified nation as a homogeneous group, rather than a collection of individuals? What should be done in the face of such a group which wants to deny the rights of individuals from outside the nation who appear to stand in the way of the promotion and protection of the national identity and interest? These sorts of questions are familiar, but no less easy to answer for that. Questions about the definition and composition of a nation and how it expresses itself add to the problem, something that was to become both obvious and crucial in Western-led efforts to manage the collapse of Yugoslavia.<sup>92</sup>

This sort of theoretical difficulty has practical manifestations which are exacerbated by the procedural and institutional focus of existing explanations of legitimacy. The political mechanisms of the liberal state - elections, referendums, parliaments etc. - are open to abuse by those seeking to legitimise illiberal political programmes based on exclusive ethno-nationalism. Gaining popular support creates immense difficulties for those operating within the Western orthodox framework of legitimacy if they are trying to resist the proponents of such a programme. Focusing on mechanisms runs

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<sup>92</sup> See below, chapter 6, especially sections 6.2.2 and 6.3.2

the risk of obscuring the roots of such mechanisms in a liberal political programme based on the cosmopolitan assumption of the equal worth of individuals and, by extension, the equal worth of their forms of identity.

Liberals are trapped in a dilemma. They cannot oppose the stated wishes of an identifiable community without breaching the cosmopolitan individualism which is so important in the value-system they proclaim to be promoting; but at the same time they need to be seen to be trying to resist the expansion of exclusive forms of identity which deny the equal rights of others. This dilemma is posed most acutely by ethno-nationalism and is finessed most effectively by civic-territorial nationalism, but liberals cannot make such distinctions in practice because of the recurring problem of the denigration of identity. Nationalism becomes a practical manifestation of the cosmopolitan/communitarian divide in theory.

Cold War concerns with states-systemic values of sovereignty, territorial integrity, non-intervention and the politics of power and security suppressed these problems by allowing fudges to be legitimised on the basis of the preservation of international peace and security. However, the Cold War's end allows the legitimising power of national identity to become more important in a Western model of legitimacy. The need to protect individual's rights and freedoms - such as belief, association and speech - and the role of the state as guarantor of these seems to point to the need for a civic territorial approach to national identity within a Western orthodox model of legitimacy. With this comes the reappearance of the contradictions and dilemmas of nationalism and liberalism, particularly over the issue of national self-determination.



These difficulties are exacerbated by the way changing international principles of statehood have tied the nation to the state, seemingly inextricably. National self-determination has become central to recognition since World War Two on the basis of the ideal of the nation-state, something with roots in the West and therefore providing another conduit between the domestic and the international and a way of bringing nationalism into the values of the Western orthodox model of legitimacy. Wight declares national self-determination to have achieved the status of *jus cogens*, a principle central to the maintenance of international order where compliance is essential.<sup>93</sup>

This is an effort to grant cosmopolitan currency to a communitarian principle, perhaps partly explaining the resulting mess. The development of international law on national self-determination is complicated and reflects the many problems this principle creates for older states-systemic components of order, such as territorial integrity and non-intervention.<sup>94</sup> During post-World War Two de-colonisation a compromise emerged stressing the needs of order, generating such ideas as self-determination as a once-and-for-all right and the attachment of a rider to almost all UN declarations asserting that national self-determination cannot be allowed to threaten a state's territorial integrity. Indeed, it can be argued that de-colonisation effectively altered self-determination from an ostensibly national right into a territorial one. The principle of territorial integrity even extended to colonies due to achieve independence in order to prevent the metropolitan power dismembering them into

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<sup>93</sup> Wight, *Systems of States*, 163.

<sup>94</sup> For the development of international law and practice on national self-determination see Yonah Alexander and Robert A. Friedlander, eds., *Self-Determination: National, Regional and Global Dimensions* (Boulder: Westview Press, 1980). Hannum, *Autonomy, Sovereignty and Self-Determination*. Robert H. Jackson, *Quasi-States: Sovereignty, International Relations and the Third World* (Cambridge: Cambridge University Press, 1990). Martti Koskenniemi, "National Self-Determination Today: Problems of Legal Theory and Practice," *International and Comparative Law Quarterly* 43 (1994).

smaller pieces, even when these pieces might better conform to the boundaries between peoples with different identities.<sup>95</sup> Thus, former colonies retained their colonial borders and the idea of who constituted the nation enacting its right to self-determination came to be defined, with very limited exceptions, as being contiguous with the territorial boundary of the colony. “The principle of territorial integrity ... was used to create the appropriate conditions for the subsequent exercise of self-determination by the peoples of former colonies.”<sup>96</sup>

This provides the legal institutionalisation of Wight’s arguments about the simplification of the popular principle into majority rule and its connection to territorial vicinity.<sup>97</sup> The needs of order during a period of opposing blocs and the real risk of major war and instability should colonial borders not be retained helped legitimise such steps. It is difficult to imagine how de-colonisation could have been handled differently, but this does not alter the fact of the difficulties it created for a framework of legitimacy including powerful liberal political ideas.

The single layer of membership of the states-system has made sovereignty the goal of almost all national self-determination movements. Only by controlling their own state can they gain the protection of international law and the rules and norms of international society. Statehood and identity have become inextricably linked. The protection of identity rests on the achievement of statehood and once achieved the legitimacy of that state rests on its protection and promotion of the identity it embodies. Whilst it is possible to see such a nation in terms of civic territorial

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95 S. K. N. Blay “Self-Determination Versus Territorial Integrity in Decolonization,” *New York University Journal of International Law and Politics* 18 (1985-86).

96 Ibid., 447.

97 Wight, *Systems of States*, 168.



nationalism, the homogeneity and clarity of sense of 'us' and 'them' that comes from ethno-nationalism has a more immediately obvious correlation.

It has been argued this sort of communitarian basis for statehood is strongly reflected in Realism, which assumes nation-states and unified actors largely for these reasons.<sup>98</sup>

As nationalism gains power, the structurally induced problems of security increasingly focus on identity.<sup>99</sup> This is a major problem for the legitimacy of modern liberal prescriptions for political development as they rest on cosmopolitan ideas of the value of human beings - universal principles of human rights, justice and so on - and standard forms of government represented by Western-style liberal democracy.

The legitimising power of ethno-nationalism can be seen as fitting more comfortably with the power-and-security approach of a Realist states-system, helping understand Wight's account of the role of self-determination in recognition. It works by replacing the unity of action of a tiny political elite with the unity of action of a homogeneous national community. The importance of territory and territorial integrity is central to both and makes the goal of political independence, sovereignty and freedom from a foreign yoke, an obvious one.

This exacerbates the impossibility of making effective practical distinctions between the two types of nationalism. With sovereignty comes sovereign equality and the protection of non-intervention. Any efforts to make distinctions between forms of identity would fall foul of both of these important states-systemic doctrines, adding to

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98 Ronan P. Palan and Bruce M. Blair, "On the Idealist Origin of the Realist Theory of International Relations," *Review of International Studies* 19 (1993).

99 Ole Waever, et al., *Identity, Migration and the New Security Agenda in Europe* (London: Pinter, 1993).

the difficulties those pressing liberal political forms and ideas can find themselves in over nationalism.

The Western liberal ideal of civic-territorial national self-determination has thus run the risk of becoming a charter for exclusive, ethno-nationalist projects which receive the protection of the states-system's prohibition on intervention because of the order-induced need for respect for sovereign equality. They also receive the protection of the link between nationalism of any kind and liberalism, and the great difficulties of making distinctions between types of nationalism within a cosmopolitan, individualist political theory. Neither is this to deny that Western states have supported the creation of states of an ethno-nationalist character, but to point to the happier coincidence of a civic-territorial nationalism and the liberal state as an ideal.

These two sides of nationalism create immense practical difficulties for those trying to operate within a Western orthodox model of legitimacy. National self-determination can have anti-liberal results, but opposing it for those who can clearly demonstrate support for self-determination, especially via means sanctioned by liberal political ideas, such as referendums, looks like the denial of identity and an effort to block a community's right to control their own destiny.

Since World War Two this problem has become more acute with the rapid increase in the number of states and forms of identity within the states-system. The connection of nationhood with statehood and thus sovereign equality makes it even harder to make distinctions in the value of forms of national identity. The de-colonisation compromise, with its emphasis on territory, becomes a partial means of escape from this dilemma of who and under what circumstances has the right to self-

determination. It also has the added advantage of strong roots in the states-system and thus a powerful legitimising value-system. However, the problems are merely mitigated, rather than resolved.

This reinforces the need to treat the Western orthodox model of legitimacy as socially constructed and evolutionary. It is unavoidably tied up with the ebb and flow of practical politics which result in a changing balance between its elements, reinforced by the difficulty of creating fixed, objective principles because of the liberal dilemmas over nationalism in particular. The Cold War granted prominence to states-systemic aspects of the Western orthodox model of legitimacy because of the need to maintain order between two ideologically opposed camps. With the Cold War over, the elements tied up in liberalism and the ideal of a civic-territorial form of identity become more important as reference points for judging the legitimacy of actions. These reference points are far from un-ambiguous and un-controversial, as this discussion has tried to show. However, nationalism is an unavoidable element in the creation of this framework of Western orthodox legitimacy because of its importance to both liberal and states-systemic elements, connecting the two and influencing the values of political communities, and thus value-judgements like legitimacy.

As well as providing reference points, the model of legitimacy is also about understanding the constraints within which actors work. The distinctions in forms of nationalism are not always clear in practice and the problem of the unacceptability of giving preference to one form of identity over another is seemingly irresolvable without abandoning crucial liberal political ideas about the equal worth of individuals. Making pronouncements about who is entitled to national self-determination as sovereign statehood on purely liberal grounds becomes virtually impossible. Using



states-systemic grounds - and relying on doctrines such as territorial integrity to deny nations their independence when such a desire has been clearly stated - opens the way to charges of hypocrisy and a failure to fulfil the goals and values inherent in the political system which legitimises Western liberal states. This uneasy relationship of tensions, disputes and even contradictions creates many serious practical political difficulties.

Again, looking into the foundations of the value-systems which sustain institutional and procedural approaches to legitimacy helps to show why certain institutions exist and are important and why they operate in the way they do to legitimise actors and actions. In the case of nationalism and its relationship to the liberal state and the states-system the foundations are shaky. The problems of the connection of the nation to statehood, the difficulty of types of nationalism and their effects on liberal political goals, and the risk of abuse of liberally sanctioned mechanisms to further an illiberal ethno-nationalist programme all create potential minefields in policy choices.

Appreciating these constraints should help create a better explanation of the choices that are made and allow for a fairer judgement against the value-systems of the Western orthodox model, including the protection of national identity.



## 2.6 The 'semi-detached' liberalism of the economy and international relations

The political and economic integration of Western Europe since 1945 and the deepening economic interdependence of the Western world over this period raises the issue of the legitimising power of a growing international economy.<sup>100</sup>

Whilst during the Cold War such developments could in part be portrayed as a security issue - the US need to re-build Western Europe after 1945 to prevent Soviet domination of Europe, the European need to prevent a return to Franco-German antagonism - such justifications have been of declining importance for a number of years and are now almost irrelevant. Economic legitimacy needs to be assessed as an important aspect of the orthodox Western model of legitimacy in the late twentieth century.

The role of economics is completely absent in the existing accounts of legitimacy in international relations. This failure needs to be addressed. The effort to try and understand an orthodox, Western model of legitimacy certainly needs to give consideration to the values and structures of the international economy. Following the idea of dominant paradigms as a way to understand the underlying value systems of legitimacy, this section will consider broadly liberal economic ideas as the dominant - not the only - model of the international economy, especially from a Western perspective. As well as trying to better understand how the values of modern Western liberal economics effect the model of legitimacy, I shall try to point to some of the

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100 This is not to deny trends towards global economic interdependence, but the trend has been particularly strong between Western Europe, North America and Japan. For a consideration of this creation of a Western core and the implications for the rest of the world see James M. Goldgeier and Michael McFaul, "A Tale of Two Worlds: Core and Periphery in the Post-Cold War era," *International Organization* 46 (1992).

linkages between liberal economic ideas and the other two major elements of the model, the states-system and the liberal state.

At its simplest, liberal economics seeks the maximum freedom of movement of goods, capital and labour; the distribution of production on the basis of comparative advantage and the determination of prices by the interaction of supply and demand in the marketplace. Therefore, liberal economics has a semi-detached relationship to the states-system/liberal state nexus of legitimacy because it moves away from the state, the centre-piece of the other two.

Liberal economic principles as a value system for a post-World War Two, and especially post-1970s oil shocks,<sup>101</sup> international economy concentrates on the operation of individuals and especially firms as the quintessential economic actor.<sup>102</sup> The use they make of their economic freedom is its principal concern. This freedom, however, is not absolute and does not exist independently of the other actors in the international system. The regulatory frameworks, level of infrastructure and the provision of crucial public goods is largely down to the state. This sort of minimal role for the state, and that it fulfils it, tends to be assumed. Limiting the state to this support role and allowing private economic interests freedom of action is the basic goal.

Considering the international economy adds to the Western focus of this model of legitimacy. Since the end of World War Two a global economic system has emerged

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101 e.g. Hutton, *The State We're In*, 15.

102 Ibid., 110.

and this process has been led by the Western industrialised states.<sup>103</sup> Its legitimisation against liberal economic standards has often been at odds with traditional, Realist understandings of national interest - in which the economy plays a supporting, mercantilist role to state power - and against state practice in that many of the most successful economies of the last fifty years have included considerable levels of state management and direction.<sup>104</sup>

Nevertheless, the ideal of a liberal international economy has underpinned GATT/WTO and become steadily more important in the work of the IMF and World Bank. The roots of liberal economic ideas in notions such as Adam Smith's 'invisible hand' seem to make largely irrelevant concern for the international political system to any great extent when making value judgements about what is legitimate. Liberal economics' individualism and emphasis on liberty provide the links with the political liberal project, but the creation of liberty and maximum freedom commensurate with its equitable distribution has been left largely up to the political liberals.

A liberal economic model also assumes a degree of order and peacefulness. Trade, the lifeblood of a liberal economy, cannot flourish in conditions of warfare or without certain guarantees - that contracts will be honoured and, ideally, that conditions of free and fair economic competition will be maintained, for instance. This betrays the imprint of the prior existence of the states-system. The state's regulatory role is built into the liberal economic framework and the development of an *international* economy rests on the need for an *international* regulatory framework - a framework

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103 It may be possible to argue that the global economy *re-emerged* after the 1930s Depression and the return to more mercantilistic and autarkic economic policies, especially among the authoritarian states of the period. Eric Hobsbawm argues it is impossible to consider the economy in anything other than global terms from as early as the 1850s. Hobsbawm, *The Age of Capital*, 69.

104 Germany, Japan and the "Asian Tigers" come immediately to mind.



of order. The limitations this may place on a liberal international economy in the interests of state security have been highlighted by recent efforts to reclaim Adam Smith, one of the founding fathers of the free-market tradition, for Realism.<sup>105</sup>

The growing importance of liberal economic values, especially in the last twenty years or so, has further complicated this relationship by emphasising the damage done by state efforts at economic management, even if this does not always match reality. The state is thereby relegated to a secondary position. The stress on interdependence and transcending and bypassing states helps explain the problems of attempting to formulate a single standard of legitimacy which takes the international economy seriously. This may in part explain why it has been ignored in existing accounts which concentrate on states and international organisations. The concerns of the states-system and international economy are very different and the frameworks of consensus they draw upon often incompatible or irrelevant to one another. The emphases they contain, their different conceptions of what is desirable and good in international relations, inevitably colour the approach they provide to a value judgement such as legitimacy.

Nevertheless, the need to generate legitimacy against liberal economic standards should be taken seriously. However, this should not overlook that the successful operation of an international economy requires a degree of international order, especially in the relations of the leading trading states. Order is the prior value and a necessary, if not sufficient, pre-condition.

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105 Andrew Wyatt-Walter, "Adam Smith and the Liberal Tradition in International Relations," *Review of International Studies* 22 (1996).



The cosmopolitanism of liberal economic thinking - its basis in abstracted individuals leading to universal principles and relationships - is threatened by the communitarianism of nationalism and understandings of the states-system. The power of the idea of security, of both the state and identity, does not fit easily into an economic system that stresses competition and insecurity as the basis for its success.<sup>106</sup> But the liberal economic model remains powerful. Its legitimising of Western actions crossing borders and penetrating states, cultures and communities enables it to act as a transmission belt for normative ideas about the states-system and the nature of statehood. As well as this function its alternative agenda for world order, based on economic interdependence and peace through entanglement, establishes a challenge to the states-systemic version of order.

The ability of this approach to the international economy to attract legitimacy to actors and actions, especially Western actors and actions where the tradition is most deeply rooted, challenges state-centric understandings of the way the world works and should work. It characterises existing actors differently and promotes different actors relating to one another in different ways and pursuing different goals. These questions become more prominent as the international economy becomes more important. It throws down the challenge to states to open themselves up to international trade and finance, a challenge taken up most strongly and willingly by the Western world. At the same time, however, it tries to hang on to meaningful notions of statehood and the structure of order produced by the states-system. This points to a possible reconciliation between liberal economic thought and the states-system in terms of their ability to legitimise principally Western actors and actions. This has the added

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106 Barry Buzan, *People, States and Fear: an Agenda for International Security Studies in the Post-Cold War Era* (Hemel Hempstead: Harvester Wheatsheaf, 1991), 123-124.

advantage of widening the debate about legitimacy further and not just in terms of getting behind its institutional and procedural manifestations at the United Nations and in debates about recognition.

The need to try and achieve some sort of balance between the economic and political strands of liberal thought may see the international economy becoming the primary arena for competition, but with competition between political communities as well as firms. States and firms as both political and economic actors constrained by the needs of order and pursuing the goals of prosperity and security of identity offers a possible compromise that sits within the value systems of both frameworks, attracting legitimacy to the system.

States are both economic and political actors, using their positions of strength in terms of permanence in the international system, control of territory, people and raw materials to promote or stymie the interests of economic actors. States can promote firms based in their territory through tax breaks, export incentives, exchange and interest rate policies and a myriad of other means. Economic actors can sometimes help states in their traditional diplomatic functions but, more ubiquitously, provide the investment to develop a country's economy, provide its people with work and generate the wealth to keep the state going. Of course, this state-firm relationship need not rest on ties of common nationality, although most major economic actors are closely tied to the political structures of a particular state, and are often not harmonious. However, the inter-relationship is undoubted and the different roles that each play can be complementary and also gain legitimacy because they fit within the overlaps of the three value systems that, I argue, underpin Western notions of legitimacy in international relations.

Since World War Two institutions such as the IMF, World Bank and GATT/WTO have increasingly played a regulatory role in the international economy. In Europe the European Commission has even stronger formal powers to regulate trade and ensure the implementation of broadly liberal trade agreements, at least within the EU, culminating in the Single European Market. In the wider world the legitimacy of the international economy can be seen in states-systemic terms in its ability to bind states together in interdependence, reducing the temptations and possibilities of going to war and thereby increasing the orderliness of international relations. Therefore, it is possible for the states-system and the international economy to complement one another in legitimising actors and actions.

In terms of the international economy *per se*, its legitimacy derives from the way it contributes to the economic goals of the generation of wealth, and free movement of goods, capital and labour on the basis of supply and demand and comparative advantage. It is very cosmopolitan with a universal book of solutions and approaches for most economic difficulties. Questions of national and cultural differences are excluded, only intruding as problems to be solved and a hindrance to the development of a global network of individuals and firms operating to maximise profit, the generation of wealth and economic development. Governments and states act as regulators, they certainly do not act as the most important players in a game of power and security.

The goals of wealth generation, free-trade, economic development and expansion are important to all states, but their achievement by liberal economic means are particularly central to the Western powers. Whilst always present, they have been



resurgent since the late 1970s and have helped to attract legitimacy in the West to the freeing of trade and finance. In addition, and perhaps most interestingly from the point of view of constructing a model of legitimacy, liberal economics have been tied to international order through interdependence, individualism and liberty, establishing links to the values of the states-system and the liberal political tradition.

This Western triumvirate of value systems and political and economic structures thus seems to underpin the institutional and procedural manifestations of legitimacy identified by the likes of Wight and Franck. Looking at the relations between this pyramid of Western orthodoxy helps to understand why the institutions take the form they do and why some procedures are more important than others. It thus strengthens legitimacy as a value judgement declaring something to be desirable, coming back to the need to tie in political terms with their everyday meaning.<sup>107</sup>

However, despite the global applicability of some aspects of this model of legitimacy - the states-systemic standards of recognition which Wight identifies have been applied to all states, for instance - the model is distinctly Western in that it derives from Western history and intellectual traditions. Its *relevance* may also be global - in that Western states globalised the states-system through their expansion between the fifteenth and nineteenth centuries<sup>108</sup> and the international economy is dominated by Western firms and states - but its *applicability* is more limited.

The acceptance of the value-systems I have tried to set out is strongest in their Western heartlands, elsewhere they are contested and even rejected. Legitimacy is

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107 William E. Connolly, *The Terms of Political Discourse* 3rd. ed. (Oxford: Basil Blackwell, 1993), 9-44.

108 Bull and Watson, eds., *The Expansion of International Society*.



about consent and about acceptance of the social structures and values which underpin political and economic forms. “[P]olitical authority represents the fusion of power with legitimate social purpose.”<sup>109</sup> It is therefore more than simply the ability of an act, rule or treaty to attract a degree of voluntary compliance, as Franck argues, it is about the acceptance of the underpinning value systems. The stress in analysis of the Security Council’s legitimacy on the importance of the military and economic power of the Permanent Members and thus their ability to grant effectiveness to decisions shows how acceptance is limited, otherwise the power of principle would be enough.<sup>110</sup> Legitimacy is thus about the power of ideas, in this case Western ideas, and how they fit into a world of diverse and competing value systems.

## 2.7 Conclusion: the international system and the power of ideas

So far, this chapter has tried to suggest a contemporary Western orthodox position based on three principal frames of reference, although they are all related to one another in a variety of ways which have shifted and changed over time.

However, these three are only three possible sets. The importance of aspects of each of them has not been constant. For example, sovereign equality as the basis of mutual state recognition was confined almost exclusively to Europe until the nineteenth century and to a minority of the world’s territorially defined units until after World War Two. The importance of liberal political ideas has become much greater since

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109 John Gerard Ruggie, “International Regimes, Transaction and Change: Embedded Liberalism in the Post-War Economic Order,” in *International Regimes*, ed. Stephen D. Krasner (Ithaca: Cornell University Press, 1983), 198.

110 This provides the core of the defence of the Security Council for both Caron, “The Legitimacy of the Collective Authority of the Security Council,” and Murphy, “The Security Council, Legitimacy and the Concept of Collective Security After the Cold War.”

1989 and the collapse of Communism as the principal alternative to the Western orthodoxy. The legitimising power of liberal economic modes of thought has grown alongside the expansion of the international economy and the decline of Keynesianism as an economic model. This does not mean it is simply a case of assuming the Western orthodox model of legitimacy can be applied to the world. This issue of consensus is important to legitimacy, it does not grow out of the barrel of a gun.

Central to the *formal* boundaries within which international relations are played out are ideas of sovereignty, sovereign equality, non-intervention, reciprocity in respect of the recognition of rights and duties, and the territorial integrity of states. These are the classical principles of the state system and their formal acceptance and relatively specific definition helps to account for their general importance and legitimacy as principles of international politics in general. They are open to abuse. Actions carried out in their name, in order to lend legitimacy, have often been for cynical motives with little to do with the preservation of orderly and peaceful coexistence. But, as the existing accounts of legitimacy show, states-systemic values have global relevance and, more importantly, a degree of global acceptance and therefore applicability. Whilst debates may continue about making the Security Council more representative, these do not extend to reforming the basis of relations between states. A global government or the abandonment of principles of sovereignty, territorial integrity and non-intervention is scarcely credible. This consensus on states-systemic values is what provides the foundations for the “voluntary pull to compliance” Franck describes in relation to actions taken by states and international organisations. It provides the legitimate social purpose to transform power into authority.

The liberal political ideal lacks this general consensus and thus its legitimacy is limited to the West where that consensus exists. This lack of general consensus is despite the incorporation of liberal ideas like the popular principle and self-determination into the states-system. This has opened it to abuse; land grabbing described as protecting the rights of an oppressed minority, the installation of compliant governments in the name of progress towards future freedom, or the acceptance of fraudulent or managed elections as proof of emerging democracy. Legitimacy is no more immune to manipulation than any other normative notion, especially where the underpinning value system has limited consensus and is only partially integrated into a wider legitimising sphere.

This, it can be argued, is linked to the internal/external divide in thinking about politics. R. B. J. Walker has argued that the distinction made between the domestic and the international, what he calls the inside and the outside, has been damaging to both political theory, principally concerned with what goes on inside the state, and international relations theory, principally concerned with what goes on outside states. He also seems to feel it is perhaps inevitable, if undesirable, at least until now.<sup>111</sup>

Walker's analysis of the development of theory in international relations and its abuse of political theory in insisting on the distinctiveness and separateness of the international provides a persuasive parallel account to this effort to produce a piece of practical political ethics dealing with legitimacy. Walker shows how the idea of a domestic-international divide has become so powerful and so embedded in the theoretical models used to think about the two spheres. He moves on to discuss how

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<sup>111</sup> R. B. J. Walker, *Inside/Outside: International Relations as Political Theory* (Cambridge: Cambridge University Press, 1993).



the sustainability of this distinction in theoretical terms is collapsing under what he sees as changing spatial and temporal conditions brought about by the end of modernity. I have tried to show, in particular in discussing the relationship between liberal political ideas and the states-system, how this distinction has influenced the way in which value systems and value judgements have evolved and continue to evolve.

This evolution appears to lead toward the conclusion that whilst the rhetoric and the justifications may have changed, the game remains largely the same. There is mileage in this but it fails adequately to take into account the importance of the values and goals that the liberal political ideal necessitates for a growing number of states. A state cannot project its power on the international stage without at the same time projecting its values and form of society. Hence the changing Western agenda of international politics; aid, humanitarian intervention, economic development, the environment. The powerful idea of sovereignty as a barrier between the domestic and international realms is under growing challenge.

Whilst there has developed a somewhat uncomfortable synthesis between states-systemic and liberal political principles, the goal of a liberally conceived international economy certainly sits unhappily with the international political system. The ability of states as the repositories of sovereignty to control access to territory means economic entities need their permission to operate within that territory. The governing authority may also need the economic actor because of the resources, technology, trade, expertise and money it may bring with it. It may disapprove of the reliance on foreigners this creates, but the foreigners may be equally unhappy with the



restrictions on operations the governing authority is able to place upon them.<sup>112</sup>

Compromise, consensus and a mutually acceptable outcome in which the benefits are split between both parties are the ways out of the potential *impasse*.

For this sort of bargaining to be successful, or even possible, both must share common terms of reference. There is a need for some level of consensus if the system is to work. This implies there is not an outright rejection of the orthodox Western model of legitimacy beyond its Western heartlands, but instead some sort of partial acceptance. Judging whether this is the result of some level of genuine belief in the Western model or is simply the result of a pragmatic recognition of the need to operate within a system dominated by Western power is difficult to assess. It is also beyond the scope of this thesis with its central concern to build a model of legitimacy to help examine the rise and fall of Yugoslavia and the reaction of the principally Western state who attempted to come to its rescue. However, the focus on international legitimacy in the literature suggests strongly that consensus is high around the states-system. In relation to the other two spheres, judgement is much harder, but the efforts at democratisation in Latin America and the former Soviet Bloc suggest liberal political ideas are gaining ground, although remaining far from universal. The international economy is becoming impossible to avoid, but the basis of its acceptance is perhaps most reliant on the need to fit in with the dominance of Western industrial economies. The plausible pessimism of ideas such as a future of two worlds - with a prosperous, peaceful Western core of high interdependence surrounded by a new periphery of struggling states attempting to supply the needs of the core and being played off against one another, producing a more Realist system of

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112 e.g. David Leyton-Brown, "The Roles of the Multi-National Enterprise in International Relations," in *World Politics: Power, Interdependence and Dependence*, ed. David G. Haglund and Michael K. Hawes (Toronto: Harcourt, Brace Jovanovich, 1990).

competing states - helps give the lie to the idea of universal acceptance of the virtues of a liberal international economy.<sup>113</sup>

Where does this leave the idea of legitimacy which brought us into this maze? Having looked at its foundations in Western value systems it becomes clearer why judging legitimacy is so difficult and why the issue of degrees of legitimacy seems to dog the concept. The existing literature has generally ducked this by simply using the reference points of international institutions and procedures to judge whether something is legitimate or not, or the extent of its claim to legitimacy. Looking at underpinning value systems makes it possible to take a stronger line. Legitimacy can have its role as a value judgement, rather than a procedural label, restored because it is possible to assess actors and actions against value systems and the way they interact.

Thus actions ostensibly falling within one of the three spheres of the Western orthodox model of legitimacy need not avoid having their legitimacy questioned. We can explain why it is they offend against a model of legitimacy which includes three principal value systems which interact and include far more than the accumulated weight of legal precedent. Using this Western orthodox model it becomes possible to question the legitimacy of action which protects absolutely the principles of sovereignty and non-intervention. Bosnia, Somalia, Cambodia and South Africa seem to provide ample proof of this. We can question action aiming at global constitutionally limited government as both impracticable and unacceptable because it would require outside imposition, undermining the bottom-up nature of the liberal

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113 Goldgeier and McFaul, "A Tale of Two Worlds."

state. Finally, action which maximises profit carries unacceptable social consequences.

In addition to dealing with actions within only one of the three spheres, a value based model of legitimacy gets around the difficulty faced by a procedural and institutional approach in dealing with novel situations and innovative responses. Departure from established practice and custom almost inevitably falls foul of existing standards of legitimacy, but by using value-systems we can better explain why innovations may be made and assess their legitimacy against their ability to meet the demands of a situation, whether it be a new political problem, or an alternative approach to a long-standing question.

The balance between the three spheres, and thus the judgements reached, changes. The end of the Cold War, with its emphasis on the concerns of the states-system - order, stability, power, security - has seen the Western standard of legitimacy move towards the concerns of the two liberal strands. The calls for a broader definition of security are often specifically linked to the end of the Cold War and include issues such as economics, human rights, the environment and the protection of cultural diversity.<sup>114</sup>

Nevertheless, order remains the prior value in part because of its roots in the states-system and its position as the most widely accepted value system. Peaceful co-existence remains a legitimate goal, a messianic crusade to propagate liberal government and free-market economics does not. An ability to contribute to the maintenance of order is a basic component of the legitimacy of actors and actions.

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114 A good example is Buzan, *People, States and Fear*.



The basis of international society in agreements about property rights, sanctity of contract and limitations on violence acts as a safety net. For some states their maintenance of these principles may be the only thing granting them legitimacy in Western eyes. International legal standards of statehood, such as the Montevideo Convention, talk about the need for agreed borders, stable populations and a government able to control the state's territory as well as an ability to enter into diplomatic relations.<sup>115</sup> In some cases, especially in the past, it seems as though the last of these has been enough to ensure continued international legitimacy for a state.

The hurdles for the West are higher, not least because of the way the two liberal spheres both contain a strong emphasis on progress and development.<sup>116</sup> Under this orthodox position the legitimacy of Western actions is questionable if it breaches the principles of the states-system which have evolved in order to provide a degree of peaceful coexistence and international co-operation and certainty. Action cannot enhance legitimacy if it attacks the social purpose of the maximisation of equal freedom of the individual and the protection of diverse identities. Action cannot enhance legitimacy if it destroys economic development. The relationship between these three, deliberately couched in the negative terms of the 'classical liberal' as things which must be refrained from, is a delicate and complicated one ultimately judged in relation to specific circumstances and local legitimising factors. Neither are these needs immune from abuse, manipulation and the paying of lip-service.

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115 Hannum, *Autonomy, Sovereignty and Self-Determination*, 16.

116 The linkage of political liberalism, economic liberalism and the goal of progress is rooted in the mid-nineteenth century. See Hobsbawm *The Age of Capital*, 3-5, although this also one of the book's central themes. It is taken on in Hobsbawm *The Age of Empire*.



Nevertheless, a contribution to order as the prior value can be seen as an irreducible minimum, with legitimacy enhanced if it also contributes to promoting liberal political ideas and forms, and to the development of an international and liberal economy. These gradations of legitimacy, and the tentativeness of this formulation - the grey area at legitimacy's heart - reflect the paradox of the cosmopolitanism of the two liberalisms and the communitarianism of the states-system, especially as it has been reinforced by nationalism. The working out of this paradox is part of the substance of the political process, domestically and internationally. It is therefore now time to turn to the substance of the politics of the rise and fall of Yugoslavia and the international response to its descent into brutal and bloody war.

## Chapter 3

### *Legitimacy and Yugoslavia, 1945 - 1980*

#### 3.1 Introduction

In this chapter I aim to use this model of legitimacy to re-examine the history of the Socialist Federal Republic of Yugoslavia from its founding in 1945 to the onset of a series of ultimately fatal crises between 1979 and 1981. Chapter 4 will take the story on to the collapse of Yugoslavia, looking at the 1980s and Yugoslavia's death throes in 1990-1991.

This chapter serves purposes beyond providing an account of Yugoslavia's history. Its role is also to consider the interaction between the orthodox, Western model of legitimacy of chapter 2 and the specific, local legitimising factors behind Yugoslavia's distinctive political and economic systems. By looking for Western values, using the orthodox Western model, we should show up where Yugoslavia's legitimacy rested on different, non-Western orthodox, values. Doing this should also provide a first indication of the extent to which the Western model may be able to penetrate into political and economic systems legitimised in different ways. It will also help to look at the relationship between the three spheres of the orthodox, Western model; for example the importance of order as a prior value and its linkage to the states-system, and how aspects of the three spheres fit as well as clash with Yugoslavia's locally specific legitimising value systems.

The emphasis is on the legitimacy of Yugoslavia as a state in a states-system as well as internally. This should show up the usefulness of such an approach based on a consideration of the linkages of value systems underpinning legitimacy, allowing a connection of the domestic, the international and the economic. The inadequacies of the existing approaches to international legitimacy will also be substantiated. They could comment on the reasons for the acceptance of Yugoslavia as a legitimate state - Wight - and on the legitimacy of the means used to pursue its foreign policy - Franck - but not more than this. The weaknesses of the Weberian, value-free, descriptive approach to the legitimacy of Yugoslavia's political and economic systems should also come out over the next two chapters by pointing to the collapse of the value systems supporting political and economic institutional manifestations. This should help answer the question of why Yugoslavia collapsed when it did.

The chapter rests on existing studies of Yugoslavia rather than attempting to completely re-assess the SFRY's history from the beginning. I lack the time, space, historical knowledge or linguistic skills necessary to attempt such a task. However, by using the analysis of legitimacy either explicitly or implicitly contained within existing work as a basis for a re-classification into the three spheres set out in chapter 2, it should be possible to throw new light on Yugoslavia's legitimacy and how and why it lost it.



### 3.2 The legitimacy of Yugoslavia

Considering its dominance in the social sciences it is not surprising that the literature on Yugoslavia falls into a broadly Weberian approach to legitimacy.<sup>1</sup> It generally emphasises the domestic arena and focuses on the institutionalisation of the authority of the founding charismatic leader, the attempts to create national myths and symbols to attract people's allegiance and the role of socialisation through party and education into acceptance of the system.

Extrapolating from this literature, the legitimacy of post-World War Two Yugoslavia rested on ten main pillars. It is important to distinguish between the post-1945 and the post-1918 versions of Yugoslavia in almost all aspects of their legitimacy because Tito deliberately aimed to create an entirely different sort of state. The Yugoslav Communist party spent the entire inter-war period dedicated to the destruction of the monarchical state. This was in part a response to the 'bourgeois nationalist' idea of the unification of the South Slav peoples that emerged in the latter part of the nineteenth century, in part under the orders of the Comintern. During the war, Tito's Partisans directed a great deal of their effort at destroying the supporters of the monarchy. Only in terms of the country's territorial basis and its right to exist can the legitimacy of the SFRY be linked to that of the Kingdom of the Serbs, Croats and Slovenes, as pre-1941 Yugoslavia was formally known, hinting at the importance and continuity of the states-system as a source of legitimacy. However, this is easily over-estimated because the Communists had their own 'creation story' for the country.

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<sup>1</sup> James Gow is explicit on this point. James Gow, *Legitimacy and the Military: the Yugoslav Crisis* (London: Pinter, 1991).

The literature on Yugoslavia stresses the centrality to this creation story of the Communist party and its leader, Tito, in the struggle to defeat the occupying Axis forces. In addition, the differences from the pre-war monarchy, in terms of goals of the equal treatment of the various groups in the population and a down-playing of the nationalities issue are also prominent. Summarised, the ten pillars of the legitimacy of Yugoslavia are:<sup>2</sup>

1. Tito - the man and the myth.
2. The Partisan War and Yugoslavia's 'self-liberation' in World War Two.
3. The break with Stalin in 1948 and the institution of a Yugoslav path to socialism.
4. Self-management socialism.
5. The institution of a federation of Yugoslav nationalities under the slogan 'Brotherhood and Unity.'
6. Consensual federal decision-making and the protection of regional interests through the 'ethnic key' governing appointments.
7. A non-aligned foreign policy and the Non Aligned Movement emphasising Yugoslavia's importance as a 'Third Way' between capitalism and Soviet-style state communism.
8. The League of Communists of Yugoslavia (LCY) as the guide and protector of the Revolution.
9. Centralised armed forces, descended from the Partisans and, after 1968, the doctrine of Total National Defence and the citizen militia to defend the country.

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<sup>2</sup> This list is not drawn from any particular source, being a summary of a range of sources. However, it is not dissimilar to that of George Schöpflin, "Political Decay in One-Party Systems in Eastern Europe: Yugoslav Patterns," in *Yugoslavia in the 1980s*, ed. Pedro Ramet (Boulder: Westview, 1985).

10. Economic development for all of Yugoslavia with resources directed to help the less developed areas catch up with the richer North.

Achieving the chapter's goals of considering the relations between the orthodox, Western model of legitimacy and locally specific factors, and assessing the ability of the Western model to penetrate states requires this list to be re-organised into three categories, reflecting the three spheres of the Western model. The reasons for the choices about which factors belong in which categories should become clear as the chapter progresses. However, they also rely on existing studies of Yugoslavia, drawing out from their analysis of the basis of the country's legitimacy the multiple roles often played by particular institutions and ideas. This approach rests on the themes of the value-systems of the Western orthodox model, rather than the themes of institutions and individuals, and the links between them, which characterise the more Weberian approach to legitimacy of other studies of Yugoslavia.

Using the three spheres of the Western model, the ten pillars of Yugoslavia's legitimacy can be organised into three sections.

The states-system:

1. The Partisan war and Yugoslavia's 'self-liberation'.
2. The breach with Stalin.
3. Non-alignment and the Non-Aligned Movement.
4. Tito.
5. Centralised armed forces and the doctrine of Total National Defence.
6. Economic development.



Liberal political ideas:

1. Self-management socialism and de-centralisation.
2. Consensual decision-making and the 'ethnic key'.
3. Federalism and Brotherhood and Unity.
4. Tito.
5. Economic development.

Liberal economics:

1. Self-management socialism.
2. Economic success.
3. Economic development for the whole country.
4. Tito.

This categorisation places several of the factors in more than one category. As well as highlighting the multiple legitimising roles of particular aspects of the Yugoslav polity, it is indicative of the domestic-international linkage, rather than divide, in the concept of legitimacy I am trying to develop. The existing accounts focus on domestic aspects of legitimacy, tending to look at Yugoslavia's foreign policy and stance in the world as a discrete issue. My characterisation brings out the way issues such as economic development and Tito himself have 'external' implications which cannot be hived off into a box marked 'foreign policy' and therefore different from the core of the matter in discussing Yugoslavia's legitimacy. In turn, this points to the interconnectedness of the value systems underpinning legitimacy, as discussed in chapter 2.

### 3.3 The states-system and legitimacy

#### *The Partisan War and Yugoslavia's Self-Liberation*

Yugoslavia's self-liberation at the end of World War Two may or may not be an entirely accurate portrait of history. It may be more appropriate to see World War Two as a civil war with the Partisans more determined to wipe out the 'Chetnik' supporters of the monarchy than to maximise the harassment of the Germans and Italians.<sup>3</sup> Regardless of this, the post-war Yugoslav leadership was able to point to its wartime role as the most successful and vigorous resistance movement in Europe and the lack of a full-scale Allied invasion to liberate the country as reasons why both Yugoslavia and the Partisans deserved the respect of victors. Yugoslavia had survived the most demanding test the states-system can throw up; its occupation and division by enemy powers. In a way analogous to Yugoslavia's self-creation in 1918,<sup>4</sup> Yugoslavia created itself anew out of the ruins of war in 1945.

Yugoslavia had defended itself and reclaimed its historical territory proving in the process that the Partisans were undoubtedly in effective control and able to defend that control. At a time when the sovereignty of East European states was partial and at the beginning of a de-colonisation process that would bring into existence a large number of states that, despite carefully constructed historical genealogies, were of

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3 This is certainly the view taken by Nora Beloff's highly partial book, *Tito's Flawed Legacy: Yugoslavia and the West, 1939-84* (London: Victor Gollancz, 1985), 57-128. See also Stevan K. Pavlowitch, *The Improbable Survivor: Yugoslavia and Its Problems, 1918-1988* (London: C. Hurst and Co., 1988), 10-15. Phyllis Auty, *Tito: a Biography* (London: Longman, 1970), 179-196.

4 Wayne Vucinich, "The Formation of Yugoslavia," in *The Creation of Yugoslavia, 1914-1918*, ed. Dmitrije Djordjevic (Santa Barbara, California: Clio Press, 1980), 201. Also Pavlowitch, *The Improbable Survivor*, 1.

dubious historical validity and often weak internal cohesion and government, Yugoslavia was a 'real' state. Its right to recognition was not in doubt.

Yugoslavia fitted the pattern of the European states that had formed the system much better than most. It possessed what Robert Jackson has called "positive sovereignty": Yugoslavia and its government could substantiate its right to recognition because of a government with the authority and the ability to govern; considerable popular support; in charge of a state with a historical lineage; and, post 1948, a continuing demonstration of the willingness to act independently, uphold the rules and norms of the states-system and defend its territorial integrity both externally and internally.<sup>5</sup>

In line with Martin Wight's view, the existing members of the system were willing to grant Partisan Yugoslavia membership of the states-system because it fulfilled the criteria for recognition of the existing members.<sup>6</sup> Once granted membership Yugoslavia was able to claim the protection of the system's principles of non-intervention and territorial integrity, and to participate fully in international events and negotiations.

As well as these formal criteria, Yugoslavia was also a crucial part of the basis of post-World War Two European order, as set out at the Yalta summit in the summer of 1945. Therefore, it benefited from the legitimacy of order, the value underpinning the states-system's institutional and procedural aspects of recognition. Until Tito and Stalin split in 1948 Yugoslavia was the most loyal Soviet satellite in Eastern Europe

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<sup>5</sup> Robert H. Jackson, *Quasi-states: Sovereignty, International Relations and the Third World* (Cambridge: Cambridge University Press, 1990), 50-53.

<sup>6</sup> Martin Wight, *Systems of States* (Leicester: Leicester University Press, 1977), 153.



and was expected to play an important role in the Soviet sphere of influence. The closeness of the Yugoslavs to Moscow and the over-riding need to preserve a much broader order as the wartime alliance declined into Cold War enabled Yugoslavia to continue to semi-covertly back revolution in the Balkans, especially in Greece, and to maintain territorial claims against Italy around Trieste, without endangering its acceptance by the West as a legitimate Balkan state.<sup>7</sup>

The need for order between the emerging Superpowers allowed Yugoslavia the leeway to behave in ways that should have damaged its states-systemic legitimacy if the rules of non-intervention and territorial integrity were not tied to the underpinning value of order. Its brief membership of the Soviet sphere of influence also granted it military protection. This shows the flexibility on legitimacy of which the states-system in particular is capable. The power and security game which goes along with the states-system engenders the need for pragmatism and a willingness to accept breaches of the formal rules as long as they do not threaten the general basis of order. Yugoslavia's efforts to destabilise Greece sailed pretty close to this wind but its activities were tolerated by Western powers because of the greater need to preserve the Yalta settlement and with it order in Europe.

The 1948 Tito-Stalin split placed Yugoslavia in a rather isolated and precarious position.<sup>8</sup> Yugoslavia began to adopt a more 'correct' approach to membership of the states-system. Appealing to the rights of a sovereign state and reciprocating them towards other states provided the means not only of seeking the system's protection,

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<sup>7</sup> For Yugoslav policy towards other Balkan states in the 1945-48 period see Duncan Wilson, *Tito's Yugoslavia* (Cambridge: Cambridge University Press, 1979), 33-36.

<sup>8</sup> Dennison Rusinow, *The Yugoslav Experiment, 1948-1974* (London: C. Hurst and Co, 1977), 43 for the threat of a Soviet invasion.

but rallying the people to the cause of independence and sovereignty, concepts that are meaningless outside of the states-system. The value of the states-system's principles to the legitimacy of Yugoslavia lies in their conservatism and mistrust of change. Once established, the 'fact' of a state's existence is very hard to challenge successfully, and the other states in the system are far more likely to support the already existing state. Between 1945 and 1991 the only successful secession was Bangladesh's independence from Pakistan in 1971.

### *The Breach With Stalin*

The breach with Stalin in 1948 was a demonstration of independence. Tito firmly refused to accept the subjugation Stalin was imposing on the other states of Central and Eastern Europe.<sup>9</sup> Such a strong demonstration of sovereignty by Yugoslavia added to its claims to full statehood. The doctrines to which the Yugoslav leadership were appealing were those of the states-system dressed up in terms of different roads to socialism and the need to find local solutions to local problems.<sup>10</sup> The development of Yugoslavia's distinctive form of Communism, with the emphasis on self-management, federalism and non-alignment, are all important in the way they impact on the international environment within which Yugoslavia was operating. This provides evidence of the constraints of the states-system on those not necessarily operating within the orthodox, Western model of legitimacy and the general relevance of the states-systemic element of this model.

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9 Ibid., 32-36

10 Ibid., 47-61.

Equally, the international environment had an important effect on the development of Yugoslavia following the abandonment of Stalinism. The developing Cold War meant Yugoslavia, as an independent state with a Communist challenge to the Soviet Union, assumed a disproportionate importance. Yugoslavia was a valuable prize for the West.<sup>11</sup> Its geographic location and the durability of its armed forces made it a significant block to any attack on Italy.<sup>12</sup> An independent Yugoslavia fitted with the interests of Western powers, shaped and understood through the power and security lens of the states-system during the Cold War.

From the other side of the Iron Curtain, the obvious importance of Yugoslavia to the West helped protect it from any Soviet desires to forcibly re-incorporate it into the Eastern Bloc. The Soviets could portray it as still a socialist country, even if an excommunicate one, but were equally aware of the risk of European war attached to any threat to its existence. The pragmatic needs of order were crucial to the acceptance on both sides of the Iron Curtain of the legitimacy of a socialist Yugoslavia.

The post-Stalin Soviet-Yugoslav *rapprochement*, symbolised by visits by Khrushchev and Bulganin to Belgrade and by Tito to Moscow in 1955 and 1956<sup>13</sup> and the restoration of relations broken in 1961 after the Hungarian invasion,<sup>14</sup> caused the Soviet Union to have a significant stake in Yugoslavia's independence. The Sino-

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11 Rusinow quotes President Truman on this. Ibid., 44-45. Also John Berryman, "The Soviet Union and Yugoslavia's Defence and Foreign Policy," in *Yugoslavia's Security Dilemmas: Armed Force, National Defence and Foreign Policy*, ed. Marko Milivojevic, et al. (Oxford: Berg, 1988), 197.

12 Owen Greene, "The Balkans in a Divided Europe: Yugoslavian Security in the Context of the NATO-Warsaw Pact Confrontation," in *Yugoslavia's Security Dilemmas*, ed. Milivojevic, et al.

13 Pavlowitch, *The Improbable Survivor*, 19.

14 Rusinow, *The Yugoslav Experiment*, 164.



Soviet divide emphasised this. In the struggle for the leadership of Communism and the Third World, the Soviet Union now faced a much more serious competitor than Yugoslavia and could therefore afford to be conciliatory.<sup>15</sup> Whilst there was no chance of Yugoslavia's incorporation into the Eastern Bloc, its championing of the causes of de-colonisation, sovereignty and independence fitted in with Soviet support for de-colonisation and 'progressive' movements in the Third World, whilst coming from a quarter that was not Soviet controlled. Yugoslavia's support for the Arab cause and co-operation with the Soviets during the 1967 and 1973 Arab-Israeli wars also contributed to a Soviet willingness not only to tolerate, but to support the maintenance of Yugoslav independence and sovereignty.<sup>16</sup> The closeness of the relationship continued to fluctuate, for example becoming very frosty immediately after the 1968 invasion of Czechoslovakia, but it never again plumbed the depths of 1948-1950.<sup>17</sup>

This kind of playing the Superpowers off against one another was easiest and most effective during the darkest days of the Cold War when the emphasis was on order through minimising direct confrontation. Yugoslavia's influence and leverage weakened during periods of détente. However, like Berlin or Korea, ignoring it was impossible because of its sensitive location. These fortuitous circumstances presented the Yugoslav elite with the opportunity to pursue a foreign policy that stressed the classical principles of the states-system, reflecting the concerns of Yugoslavia about the periodic threat that it faced from the Soviet Union, and also ensuring that Yugoslavia did not undermine its own legitimacy by denying or challenging the principles of the system that gave it statehood.

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15 Ibid.

16 Described particularly gleefully by Beloff, *Tito's Flawed Legacy*, 173, 176-178.

17 Rusinow, *The Yugoslav Experiment*, 242.

*Non-Alignment and the Non-Aligned Movement*

The Non-Aligned Movement (NAM) played an important part in the legitimacy of Yugoslavia, especially in the NAM's early years. Tito's role as one of the founders and leading figures gave Yugoslavia much more weight than its position as a small, somewhat underdeveloped state in the Balkans would otherwise have deserved.<sup>18</sup> It also provided the means for promoting the global applicability of Yugoslav self-management, adding to its legitimacy by emphasising its general value as an effective organising principle for a state.<sup>19</sup> The initial success of the NAM in establishing a Third World agenda and its role in raising awareness of North-South issues as sources of conflict and a threat to order did not last. The decline of the NAM in the 1970s followed from a number of factors.

The 1973-74 oil shocks brought about a period of 'stagflation' and great competition among the NAM's members as they struggled for declining markets and to overcome what became an almost continuous slide in the price of raw materials, minerals and primary agricultural products. The oil-shocks also undermined the NAM by shifting interest towards OPEC-style producer cartels as the best way to put pressure on the industrialised nations. The narrower agendas of the producer groups also seemed to offer a greater chance of success than the call for a New International Economic Order. This had little impact, being partly undermined by arguments about sharing out the redistributed wealth it called for. This dashed hopes of challenging the East-West

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18 Beloff, *Tito's Flawed Legacy*, 163.

19 Zachary T. Irwin, "Yugoslav Nonalignment in the 1980s," in *Yugoslavia in the 1980s*, ed. Ramet, 249.

agenda with a North-South one stressing issues of distributive justice and trading relationships. This shows the priority of the Realist power, security and order agenda of the dominant powers.

Political division emerged strongly over the Egypt-Israel peace negotiations following the 1973 war.<sup>20</sup> Cuba led a group of radical countries, with strong links with the Soviet Union, in calling for Egypt's expulsion for dealing with Israel. Yugoslavia was among the more pragmatic members trying to stop the radicals from dragging the NAM closer to the Soviets. Divisions also developed over the attitude towards Superpower détente.

The decline of the NAM did not rule out non-alignment as a policy stance for Yugoslavia. Indeed, non-alignment remained an almost unquestioned corner-stone of Yugoslavia's identity, especially for the LCY and Yugoslav military.<sup>21</sup> Non-alignment was a policy that helped give Yugoslavia security because of the stress it placed on respect for the principles of the states-system, for all and by all states.<sup>22</sup> The decline of the NAM did, however, undermine Yugoslavia's standing in the world as a leader of a movement that offered something different from the East-West confrontation.<sup>23</sup> The NAM had helped Yugoslavia 'punch above its weight' in international political terms, granting the regime considerable prestige and importance both domestically and abroad. This prominence, combined with non-alignment's emphasis on non-

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20 Ibid., 261-262.

21 Rusinow, *The Yugoslav Experiment*, 334 for emphasis at 10th LCY Congress to confirm 1974 Constitution.

22 Fred Singleton, "Yugoslavia's Defence and Foreign Policy in the Context of Non-Alignment," in *Yugoslavia's Security Dilemmas*, ed. Milivojevic, et al., 167.

23 Ibid., 176-189 for a summary of NAM summits and Yugoslavia's role in them.



intervention and territorial integrity, was a confirmation of Yugoslavia's statehood, its right to defend it and also its acceptance of its duties towards other states. In doing this, Yugoslavia's leaders were making clear they should be left alone as they represented no threat to the states-system as a whole or any of its members in particular. They were upholding the principles of international order.

### *Tito*

Tito personified Yugoslavia on the international stage.<sup>24</sup> His position as the 'father' of post-World War Two Yugoslavia enabled him to represent the country in international affairs with unparalleled authority. In this it is possible to see not only a Weberian legitimising founding figure, but also the individual the states-system seeks as the focus for the tendency to reification. Tito *as* Yugoslavia contributed to his personal authority in international affairs. His willingness to lead the country forcefully and with great charisma gave him the opportunity to play the international statesman to a domestic audience, and to lead and influence international events involving Yugoslavia more effectively than would otherwise have been possible. A strong international role strengthened his appearance as a solid, central figure with the ability to bestride the Federation. In turn, this increased the extent to which he was able to fulfil the states-system's assumption of an individual leader to personify a state. A spiral built up around Tito with his domestic and international roles strengthening the legitimacy of Tito as a leader and Yugoslavia as a state. The states-system's question of "Who's in charge?" pointed to Tito, giving him the opportunity

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24 This is drawn strongly by Auty in her biography. Auty, *Tito*, 256-263.

to use the international environment to strengthen his claim to control of Yugoslavia.<sup>25</sup>

*Centralised Armed Forces and 'Total National Defence'*

Yugoslavia's military, and especially the army, could claim direct descent from the liberating Partisans and thus drape themselves in the perceived glory of that struggle.<sup>26</sup> Domestically this helped to grant them legitimacy as the liberators of the people who therefore owed them allegiance. Internationally, the states-system's emphasis on the military element of power and the competition for security among states added to the military's desires and claims to be an important federal institution. These same precepts put pressure on states to maintain a strong, unified defence identity and defence forces.

The military as a federal institution representing Yugoslavia as a whole, became increasingly important during the late 1960s and 1970s as the decentralising and liberalising reforms gathered pace.<sup>27</sup> The introduction of the doctrine of Total National Defence prompted vigorous resistance by the military to attempts by some Republics, Slovenia for example, to use the militia forces as a launch-pad for the creation of a federalised system of armed forces. The Yugoslav National Army's (JNA) leadership was not only fighting to maintain their exclusive right to command

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25 Summary of the kind of questions asked by states considering recognition of a state and with whom to exchange diplomatic emissaries. See Thomas M. Franck, *The Power of Legitimacy Among Nations* (Oxford: Oxford University Press, 1990), 117.

26 James Gow, "Legitimacy and the Military: Yugoslav Civil-Military Relations and Some Implications for Defence," in *Yugoslavia's Security Dilemmas*, ed. Milivojevic, et al., 67-68.

27 For a brief summary of the developing political role of the military at this time, especially in relation to the Croatian Crisis of 1970-1971, see *ibid.*, 67-71.

Yugoslavia's defence, they were fighting to maintain their position as a strong federal institution able to represent Yugoslavia as a whole, granting it a single defence identity. However, the process also created a stronger link between the military and the people through the militia based All People's Defence System, strengthening the military's political role and pan-national character.<sup>28</sup>

This is not to underestimate the desire of the military to hang on to their own power and share of the budget. But understanding how these kind of bureaucratic battles take place within a framework partially set by the needs and expectations of the states-system for a state to have a single international identity puts them in context. Fear of secession comes from domestic concerns and also from the states-system because it brings the potential for instability and conflict. The legitimacy of the Yugoslav armed forces can be explained by their role as defenders of the state linking them to the principles of the states-system as well as their claims to be the descendants of the liberating Partisans.<sup>29</sup> Total National Defence and opposition to federalisation reflected the need for a sense of unity in military matters at least partly stemming from the states-system and its preference for order. This was particularly important at a time when decentralisation and federalism dominated the domestic political agenda.<sup>30</sup>

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28 Ibid., 68.

29 Pedro Ramet, *Nationalism and Federalism in Yugoslavia, 1963-1983* (Bloomington, Indiana: Indiana University Press, 1984), 41 emphasises the determination of the LCY and the Yugoslav military to keep the country together.

30 See below, 3.4 and 3.5.



*Economic Success*

The last element in the role played by the states-system in Yugoslavia's legitimacy is the link between economics and the states-system.<sup>31</sup> Yugoslavia's ability to act as an exemplar of a Third Way was largely dependent on its producing prosperity. It achieved this with considerable success until the end of the 1970s despite periods of foreign exchange, debt and inflation crises.<sup>32</sup> In international terms this contributed to Yugoslavia's prestige and ability to influence by example. It also gave it the economic wherewithal to sustain its international pretensions and its military establishment.<sup>33</sup> The contribution to domestic stability made by relative economic success also fitted the states-system's distrust of instability and its tendency to spread to neighbouring states or to spark expansionism by a government seeking to regain popularity through successful war. There is linkage between the economic sphere and the states-system's basic value and goal of order.<sup>34</sup>

The international economic consensus before the late 1970s included a large element of Keynesianism and a consequent acceptance of a considerable amount of state management and involvement, even in Western capitalist economies. The Cold War and the corresponding dominance of the value of order, especially in a strategically sensitive area like the Balkans, ensured issues like compliance with liberal economic

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31 See above, 2.6.

32 Harold Lydall, *Yugoslavia in Crisis* (Oxford: Clarendon Press, 1989), 40. Also Bruce MacFarlane, *Yugoslavia: Politics, Economics and Society* (London: Pinter Publishers, 1988), 114.

33 Some figures for military expenditure are given in Lydall, *Yugoslavia in Crisis*, 147. Also Robin Alison Remington, "Political-Military Relations in Post-Tito Yugoslavia," in *Yugoslavia in the 1980s*, ed. Ramet, 56. Marko Milivojevic, "The Political Role of the Yugoslav People's Army in Contemporary Yugoslavia," in *Yugoslavia's Security Dilemmas*, ed. Milivojevic, et al.

34 See above, 2.6.

ideals were downplayed. This is indicative of order as a prior value and its basis in the operation of international society built on the principles of the states-system.<sup>35</sup>

The Cold War contributed to Yugoslavia's relative economic success. The power-political motives behind Western financial and economic support for Yugoslavia came from the need to help protect it as a crucial element of European order and from the need to encourage Yugoslavia further along the path towards a market economy.<sup>36</sup>

The two spheres conveniently overlapped for the West, making it much easier to justify economic assistance to Yugoslavia. Fulfilling Western interests in maintaining a viable Communist challenge to the Soviet Union and a useful buffer between the Warsaw Pact and Italy served the needs of European order. It also promoted potential business opportunities and liberal economic values in Yugoslavia and helped to tie the country to the emerging international economy. Thus states-system induced power politics was satisfied, reinforced by the appeal of liberal economic ideas to interaction and interdependence. Legitimising such a policy towards Yugoslavia was therefore easier than it would have been towards, say, Romania, a country with tendencies to independence from the Soviet Union - it refused to host Warsaw Pact exercises, for example - but with a centrally planned, Soviet-style, economy.

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35 See above, 2.2 and 2.7.

36 Rusinow, *The Yugoslav Experiment*, 44, 65, 109, 178, 241.

### 3.4 Liberal political ideas

The five elements of the legitimacy of the old Yugoslavia to be considered in relation liberal ideas about the state and politics are:

1. Tito
2. Self-management socialism and decentralisation.
3. Economic success.
4. Federalism and Brotherhood and unity among the constituent nations.
5. The 'ethnic key' and consensual decision-making.

This classification is inevitably strained, as looking for the liberal political elements in a self consciously socialist system is a somewhat artificial approach to the legitimacy of Yugoslavia. However, the exercise is valuable because it should help to show how the locally specific legitimising factors of these five elements relate to the orthodox Western model of some of Yugoslavia's most important political and economic partners. It will also bring out the extent to which Yugoslavia's socialist system was penetrated by Western value systems. This will help to understand the limitations and constraints these placed on Yugoslavia's leadership in their reforms and modifications to the political system and how Yugoslavia used alternative, socialist values to legitimise features of its political system. Also, having stressed in the previous section the obvious geopolitical interests of the West in Yugoslavia, this examination will bring out some of the support provided for Western actions by elements of the Yugoslav system that could be portrayed in a liberal light. Therefore, the issue of the relationship of the international environment to both the locally



specific legitimation of Yugoslavia and to the liberal political ideas in the Western orthodox model of legitimacy will receive a little illumination.

### *Tito*

In terms of a constitutionally limited government protecting the rights and freedoms of the people to which it is accountable, Tito as a ruler does not measure up too well. However, his importance lies not only in the power he wielded but in the way he acted as a limitation. In some ways Tito was a constitutional limitation considering his special status as life President of both Party and State, a concentration of power the 1974 Constitution ensured could never happen again.<sup>37</sup>

The role of Tito in legitimising Yugoslavia lies in the classic Weberian progression of legitimacy from individual charisma through to an institutionalised form of the founding father's wisdom.<sup>38</sup> Slogans such as "After Tito - Tito!" which followed his death in May 1980 point to his importance in underpinning the regime and the state.<sup>39</sup> He personified the country and acted as the principal guarantor and protector of its political system, leading actions such as the sacking of Rankovic and the suppression of the Croat Spring.<sup>40</sup>

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37 Ibid., 326-334. Also Pavlowitch, *The Improbable Survivor*, 75, 144.

38 Max Weber, "Legitimacy, Politics and the State," in *Legitimacy and the State*, ed. William Connolly (Oxford: Oxford University Press, 1984).

39 Remington, "Political-Military Relations," 65.

40 Alexander Rankovic was one of the three most important Partisan leaders, alongside Tito and Milovan Djilas. After the war he came to control the police and state security services, consistently taking a conservative line in debates about political and economic reform and pressing for greater *rapprochement* with the Soviets. In 1966 he was toppled from power following a scandal including the alleged bugging of Tito's bedroom. He was arrested, tried and imprisoned. The Croat Spring, which somewhat confusingly began in the autumn of 1970, was a cultural revivalist movement, with the support of the Republican government, which took on a nationalist character. As cultural celebrations became political calls for greater independence the central government and army intervened, removed the Croat

Yugoslavia under Tito was a more 'liberal' state than other East European countries. Tito himself and the government he led benefited from comparison with neighbouring states helping legitimise Western support rooted in strategic concerns. The distinctiveness of the Yugoslav socialist system reiterated the distinction between Yugoslavia and the Soviet Bloc. Yugoslavia generally moved in the 'right', i.e. liberal, direction and Tito was crucial to this. His role as ultimate arbiter in the decision-making process made him the guarantor of liberalising reform.<sup>41</sup> This domestic and international personification of Yugoslavia were mutually reinforcing.

There were, of course, considerable restrictions on the freedom of the individual: the criminalisation of anti-Communist political activity, the illegality of opposition parties, periodic crackdowns on the press and government above the law.<sup>42</sup>

Yugoslavia's avoidance of attacks and condemnations by Western powers relates again to the role of the states-system in establishing legitimacy. Tito was able to emphasise, and perhaps exaggerate, the differences between his regime and others in Eastern Europe because of his position as an international statesman. The lionising of his achievements in the West as well as in Yugoslavia helped to predispose Western publics in Yugoslavia's favour - a leader treated with such reverence cannot lead a state that is all bad.<sup>43</sup> The concern of the states-system with 'the situation on the ground' helped place the emphasis on the reality of life in Yugoslavia, as seen by

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government and purging the League of Communists of Croatia. However, many of the Croat Spring's political demands were to be met in the 1974 Constitution.

41 Rusinow, *The Yugoslav Experiment*, 192-348.

42 MacFarlane, *Yugoslavia*, 20-85. Lydall, *Yugoslavia in Crisis*, 3, 11-23, 213-234.

43 This is something that Beloff makes much of. Beloff, *Tito's Flawed Legacy*, 29-56. Also Pavlowitch, *The Improbable Survivor*, 129-142.

other international actors, rather than on its philosophical underpinnings.

Ideologically motivated hostility towards Yugoslavia existed, but was often subordinated to, or tempered by, Yugoslavia's relative liberalism and the need to further encourage it along the liberal path.<sup>44</sup> Also important was the overwhelming concern with the preservation of order in the Balkans granting the Yugoslav system a good deal of leeway in how it operated.

### *Self-management socialism and decentralisation*

Yugoslavia built its attempt to follow a different path to socialism on self-management; the idea that the workers should run the factories.<sup>45</sup> The role of self-management socialism in the legitimation of Yugoslavia lies in this goal of handing power back to the people. This contrasted with the centrally planned Soviet Union whilst still portraying self-management as a better way to achieve socialist goals. This programme could, nevertheless, be seen from the West as including elements of individualism, popular involvement and control.

The workings of the system proved to be a great deal more complicated, bureaucratic and centralised than the idea suggested.<sup>46</sup> The system never resolved the contradiction of a party wedded to the idea of a Leninist vanguard - with a monopoly on political wisdom and the right to lead the people - proclaiming decentralisation of decision-making. These competing pressures subsumed self-management in a welter of Social Plans and Social Contracts, banking regulations, capital and hard currency

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44 Beloff's and, to a lesser extent, Lydall's books are examples of this.

45 For the early development of this idea see Rusinow, *The Yugoslav Experiment*, 32-80.

46 This is something that Lydall emphasises. Lydall, *Yugoslavia in Crisis*, 72-125.



distribution controls, political supervision, and others. The weight of more traditional communist practice - economic planning, a bias in favour of heavy industry, anti-agricultural policies, the building of politically motivated factories to industrialise the workforce - proved almost impossible to throw off.

The LCY's hand weighed heavy, but it increasingly weighed heavy on each of the Republics and Autonomous Provinces separately. The reform process of the second half of the 1960s devolved power away from the LCY and towards the Republican parties.<sup>47</sup> This helped the legitimacy of the self-management system because it appeared to mark progress towards the goal of decentralisation and also because it placed power at the level with which most of the population identified most closely.<sup>48</sup>

There was also a growing use of self-management by the regions to pursue regional interests, in isolation from the national picture.<sup>49</sup> Nationalism combined with self-management. The regions were able to use self-management to seek legitimacy for themselves, independently of their membership of Yugoslavia, by pursuing economic policies aimed at establishing themselves as proto-states, able to operate in the international system, both politically and economically.<sup>50</sup> This fitted the values of socialism because it privileged societal interests over individual ones using the social group people identified with most closely, the nation, within the all-Yugoslav framework of class solidarity.

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47 Rusinow, *The Yugoslav Experiment*, 192-244.

48 Ramet, *Nationalism and Federalism*, especially 48-86.

49 Ibid., 76-86.

50 Acceptance of the "sovereignty" of the Republics came in 1971. Rusinow, *The Yugoslav Experiment*, 300.

Considering the constraints of a socialist set of values interacting with the West helps show how the ideals and mechanisms of communism co-existed with political forms showing recognisably liberal tendencies important to Yugoslavia's relationship with the West. It enabled the Yugoslav leaders to plug into both the locally legitimising value-system of socialism and Western liberal political orthodoxy to buttress a relationship with the West based on strategic considerations and the needs of European order.

### *Economic success*

The tension between centralising and decentralising pressures contributed to the rather stop-go nature of Yugoslav economic development as the centre periodically slammed on the brakes to slow down an over-heating economy, especially in the late 1950s and early 1960s.<sup>51</sup> Dissatisfaction with the self-management system and its failure to fulfil the goal of giving the factories back to the workers was most acute during times of recession.<sup>52</sup> Yugoslavia could overcome restrictions on individual political freedom by gilding the cage people lived in as well as by appealing to socialist solidarity and the needs of the many over the needs of the one. When economic development was in decline, the problems became more acute. The example of prosperity provided by neighbouring states such as Italy, Austria and Germany made legitimising the situation harder for the Yugoslav system.

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51 Ibid., 110-111, 121-123.

52 Lydall emphasises the growing cynicism, absenteeism and indiscipline of the workforce in the 1980s. Lydall, *Yugoslavia in Crisis*, 4-5 and throughout the book.

Yugoslavia's economic system aimed at levelling up economic development throughout the country as well as in absolute terms for the country as a whole. The centralised redistribution of wealth and the direction of investment towards the poorer parts of the country was especially strong during the 1950s.<sup>53</sup> The socialist goal of creating equal wealth and benefits through industrialisation and modernisation for Macedonia, Montenegro, Kosovo and Bosnia-Herzegovina continued to elude Yugoslavia. The richer parts of the country, principally Slovenia and Croatia, continued to get richer and the poor areas failed to catch up.<sup>54</sup> The failure to redistribute wealth and iron out discrepancies caused considerable damage. Yugoslavia was failing by its own standards whilst suffering from comparison with nearby Western states to which Yugoslavs had relatively free access. The socialist legitimacy of Yugoslavia could not escape comparison with Western neighbours and the Western orthodox model of legitimacy upon which they rested.

### *Federalism and 'Brotherhood and Unity'*

The failure to redistribute wealth and bring the poorer areas up to the level of the richer ones had particularly acute effects because of Yugoslavia's federal nature and especially because of the explicitly national basis of its federal units.

The nationalities question had dominated Yugoslav politics since the country's founding in 1918.<sup>55</sup> Concerns among Croats and Slovenes about Serb hegemony

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53 Rusinow, *The Yugoslav Experiment*, 21, 99-100.

54 See figures on income disparities in Ramet, *Nationalism and Federalism*, 31. MacFarlane, *Yugoslavia*, 60. Lydall, *Yugoslavia in Crisis*, 188.

55 Ramet, *Nationalism and Federalism*, xv, 7.



dogged the Kingdom of the Serbs, Croats and Slovenes.<sup>56</sup> The problem continued with the post-war Republic. A federal structure to try and assuage fear of Serb domination was virtually inevitable.<sup>57</sup>

The principle was Brotherhood and Unity; recognising Yugoslavia's peoples were different and protecting their identities within a federal structure granting power to the centre to maintain the unitary nature of the state.<sup>58</sup> Attempts to root out national identities to create a specifically 'Yugoslav' one did not last long and failed.<sup>59</sup> For the non-Serb Republics, the suspicion that 'Yugoslavism' was a cover for Serb hegemony, as it had been under the pre-war monarchy, was a powerful force. Croats and Slovenes in particular associated any sort of pressure for greater centralisation with Serb dominance.<sup>60</sup> The 1966 overthrow of Rankovic, the Serb who had pressed strongly for greater centralisation and who ran the powerful state security apparatus, marked a victory over Serb dominance and ushered in a period of decentralising reform, giving greater powers to the Republics and Autonomous Provinces.<sup>61</sup>

There are echoes here of the importance of the nation to individual identity within liberalism, and the need to respect national, cultural and linguistic differences. The fusion of nationalism and liberalism in the nineteenth century<sup>62</sup> undoubtedly had a

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56 Paul Lendvai, "Yugoslavia Without Yugoslavs: the Roots of the Crisis," *International Affairs* 67 (1991): 254.

57 Rusinow, *The Yugoslav Experiment*, 6.

58 The changing nature and degree of centralised power in Yugoslavia is traced throughout Rusinow, *The Yugoslav Experiment*.

59 Ramet, *Nationalism and Federalism*, 20-42.

60 Ibid., 55.

61 Rusinow, *The Yugoslav Experiment*, 184-191.

62 Elie Kedourie, *Nationalism*, rev. 3rd. ed. (London: Hutchinson, 1985), 9.

great impact in the Balkans where the Austro-Hungarian and Ottoman Empires ruled over a patchwork of different national groups that could trace their identity a very long way into the murk of history.<sup>63</sup> The problem of reconciling the constituent nationalities without splintering under the pressure of the liberally supported principle of self-determination plagued Yugoslav politics. Whilst national identities were usually linked to ethnic groups and had roots in the idea of a liberation struggle, the formal structures of the system and the attitude of regional leaderships stressed the multi-ethnic identity of all the Republics and Provinces, pointing toward a civic-territorial approach which certainly fits more comfortably with the class emphasis and collectivist ethos of socialism.

As the decentralisation of power gathered pace, the ability of the party to act as the vanguard, directing the revolution, diminished. This drove the strengthening of the party at the Republican and Provincial levels, creating eight almost separate party organisations, only loosely affiliated at the centre.<sup>64</sup> Local, rather than Yugoslav, interests dominated their policy stances; with coalitions of Republican and Provincial parties forming and re-forming issue by issue.<sup>65</sup> Pedro Ramet compared the system to a balance of power operating among separate states.<sup>66</sup>

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63 A brief summary can be found in MacFarlane, *Yugoslavia*, 3-7. See also Noel Malcolm, *Bosnia: a Short History* (London: Macmillan, 1994).

64 This is a theme throughout all the studies of Yugoslavia used in the preparation of this chapter. Rusinow, *The Yugoslav Experiment*, provides a detailed account of political reform up to and including the 1974 Constitution. MacFarlane, *Yugoslavia*, takes the story on to the mid-1980s. Chapters by Höpken, Zukin, Schöpflin and Ramet in *Yugoslavia in the 1980s*, ed. Ramet, have also proved particularly useful.

65 Ramet, *Nationalism and Federalism*, 20-42.

66 *Ibid.*, 3-19. He uses the analogy in a series of case-studies of political disputes within Yugoslavia. See 87-216.

In a similar way to Tito's unorthodox role as a constitutional guarantor of the system, the federalisation of the LCY generated an unorthodox form of multi-party politics which was effective as a system of checks and balances, ensuring the centre could not be too powerful and allowing for a range of voices and interests within Yugoslav politics. With the limited concern for the details of the operation of a system showing liberal influences and achieving some liberal goals in the order-dominated agenda of the Cold War this novel approach to the dilemma of restraining Leviathan helped Yugoslavia's image in the West as long as it continued to work.

In relation to a Western orthodoxy of liberal political ideas, the federal system appeared to place power closer to the people and at the level they most closely identified with. The socialist goal of empowering the masses and breaking the capitalist stranglehold on power was also being pursued. Yet within the Republics and Provinces, the party remained extremely strong, dominating decision-making in almost all areas of life and especially the economy.<sup>67</sup> The centralising - decentralising tension, between the party on one hand and federalism and self-management on the other, reached equilibrium with the concentration of power at the Republican and Provincial level. Considering Yugoslavia's importance to the West and the West's importance to Yugoslavia, it also had the advantage of taking a notably liberal way of organising a polity and adapting it to fit with a socialist system. Unlike the efforts of the Soviet Union to co-opt a federal system, Yugoslavia's had meaning. Yugoslavia again appeared to manage to balance between the local needs of the socialist system and international, liberal expectations, even if these were often cover for more important strategic concerns.

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<sup>67</sup> Lydall, *Yugoslavia in Crisis*, 80-81.



The tolerance the Communist government demonstrated towards religion bolstered this coincidence of liberalism and locally specific legitimacy. Generally people were left alone to follow their religious beliefs.<sup>68</sup> These were strong in Yugoslavia principally because of the close connection between religion and nationality.<sup>69</sup> Religious tolerance was not primarily the result of a regime seeking to portray itself as particularly liberal and tolerant, but another manifestation of the need to minimise the potential for national rivalries. Recognition of Muslims as a *nationality* in the 1971 census was part of this.<sup>70</sup> Other nationalities expressed concern in relation to a rise in Muslim nationalism and their demands for political power, and only secondarily in terms of religious fundamentalism, which was never strong.<sup>71</sup> This added a third side to the traditional Orthodox - Catholic divides between the Serbs and Montenegrins on one side and the Croats and Slovenes on the other. The Catholic Church's support for the Croatian fascist Ustashe regime in World War Two, which had slaughtered thousands of Orthodox Serbs, exacerbated suspicion.<sup>72</sup> That linguistic differences among Serbo-Croat (or Croato-Serb) speakers also followed the religious dividing lines, the Orthodox people using the Cyrillic alphabet and the Catholics the Latin, made differences more noticeable and added to the sense of national differences.

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68 Pedro Ramet, "The Dynamics of Yugoslav Religious Policy: Some Insights From Organization Theory," in *Yugoslavia in the 1980s*, ed. Ramet.

69 Pavlowitch, *The Improbable Survivor*, 94-111.

70 Ramet, *Nationalism and Federalism*, 148.

71 *Ibid.*, 145-155.

72 Pavlowitch, *The Improbable Survivor*, 100-101. Also, *ibid*, 9, 30.

*The 'Ethnic Key' and consensual decision-making*

Containing the nationalities problem manifested itself in a growing number of collective federal institutions, with places determined by the 'ethnic key'.<sup>73</sup> This granted places to representatives from Republics and Autonomous Provinces in the ratio of two places for each Republic and one for each Autonomous Province. As the decentralisation of Yugoslavia continued in the late 1960s and 1970s a growing number of Federal posts rotated regularly among representatives of the Republics and Provinces.<sup>74</sup> The parliamentary chamber composed of national representatives - as opposed to those elected through the self-management structure to represent economic sectors and the Federal Chamber - became increasingly dominant.<sup>75</sup> The principle of consensual decision-making handed each Republic and Province an effective veto.<sup>76</sup>

Growing concentration of power at Republican and Provincial level strengthened nationalism and the placing of local interests above Yugoslav ones.<sup>77</sup> The political system was a recipe for paralysis, ineffectual decision-making and flawed compromise based on the lowest common denominator. The weakness of Federal institutions, hamstrung by rotating officials who generally felt a greater loyalty to

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73 Rusinow, *The Yugoslav Experiment*, 285.

74 This process began with the 1963 Constitution. MacFarlane, *Yugoslavia*, 35. Lydall, *Yugoslavia in Crisis*, 21-22. Also, *ibid.*, 280 on the introduction of the idea of a rotating, collegial Presidency.

75 Ramet, *Nationalism and Federalism*, 72-75.

76 *Ibid.*, 78.

77 Rusinow, *The Yugoslav Experiment*, 284-285 lists the powers that were reserved to the Federal government. These were, "... foreign policy, national defence, and measures necessary to ensure a unitary Yugoslav market, common monetary and foreign trade policies, the principles of the political system and ethnic and individual rights." Even here, inter-regional consensus was required before any action could be taken.

their Republic, meant implementing decisions became increasingly difficult. A bloated bureaucracy did not help matters.<sup>78</sup> As the wartime leaders died, there were a diminishing number of individuals with the personal authority to cut through the morass and enforce Federal decisions.<sup>79</sup>

With several of Yugoslavia's locally specific legitimising factors rooted in the 1940s, their declining relevance to the experience of the mass of the population became a serious problem. Acceptance of the system because of its roots in the Partisan struggle, the breach with Stalin and the personal authority of the war generation of leaders became less than automatic. The division of the political system through decentralisation led to both a search by local leaders for legitimacy through fulfilling the goals of the local population and greater room for the international climate to operate. The appeals for liberalisation and Croat nationalism during the Croat Spring of 1970-71 provide an example of the challenge from international and parochial legitimising frameworks to the Yugoslav orthodoxy. It also coincided with a period of détente and the opening of China to the West, when states-systemic concerns about order through minimisation of friction were lower, raising hopes for peace through engagement.

The ethnic key and requirement for consensus acted as a conflict resolution mechanism between the nationalities.<sup>80</sup> The veto gave them a sense of security useful to keeping the parties negotiating and seeking consensus. Backing came from the ethnic key and the rotation of posts. The power of the Federal units and principles of

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78 Lydall, *Yugoslavia in Crisis*, 88-89.

79 *Ibid.*, 21.

80 Ramet, *Nationalism and Federalism*, 36-37.



consensual decision-making limited central government power. The only Federal institution to resist this was the military where Serbs and Montenegrins were significantly over-represented, and, as importantly, Croats and Slovenes under-represented.<sup>81</sup>

For those outside Yugoslavia seeking alternative legitimization of Western support rooted in concerns about order and the geopolitics of the Cold War, Yugoslavia's political system provided some useful ammunition. This seems to have been important within Yugoslavia as well and the system was able to tread a tightrope between the needs of socialism as the dominant, locally specific value system and liberal political notions and actions useful to Yugoslavia's Western backers. It also helped the improving relationship with the Soviet Union. The risks of sparking World War Three and the obvious Western power and security interests in Yugoslavia were the principal reasons for Soviet respect for Yugoslavia's independence, but they could also portray Yugoslavia as a socialist country, and one doing some good work in backing a North-South agenda, and thus a part of the socialist camp. The legitimacy of liberalism thus played a supporting role, and often a pretty cynical one, to a dominant states-systemic, order based agenda. It was nevertheless useful and I have tried to show how the domestic and the international interacted in this sphere with local, socialist value-systems and distinctive political forms which benefited from coinciding with liberal political forms and ideas.

This account of Yugoslavia through the lens of liberal political ideas suggests that the relationship between the local legitimization of the system and Yugoslavia's

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81 Milivojevic, "The Political Role of the Yugoslav People's Army," 38. Figures are also given in *ibid.*, 39.

relationship with the West and its standard of legitimacy was a factor in Yugoslav reform. The movement away from centralised power to a Federal system and the adoption of self-management not only established Yugoslavia as a distinctive socialist system and emphasised its independence from the Soviet Union, crucial to a domestic audience, but also brought it closer to the liberal political ideals of the West. This process was led by Croatia and Slovenia, the two most 'Western' of the Republics and this may also be significant. The importance of this penetration of Yugoslavia by the orthodox Western model of legitimacy can easily be over-estimated, and the basis of the relationship between the West and Yugoslavia was undoubtedly strategic, but it does suggest that there is a connection between Yugoslavia's local legitimisation and the Western model and a need to consider the domestic - international link in legitimacy.

### 3.5 Liberal economics

**T**he need to develop an orthodox, Western model of legitimacy for the here and now has meant an emphasis on the importance of liberal economics as a value system which is too strong for the period of this chapter. Prior to the revival of free-market economics stressing a minimal role for the state in the late 1970s, Keynesianism required a degree of state intervention to help manage the economy and this was a central feature of Western economics. This is an example of the evolutionary nature of legitimacy. More specifically, the relationship between the local legitimacy of the Yugoslav economic system and the western orthodox model was less tense than it would become when Western governments returned to neo-liberal, free market economics.

One of the elements of chapter 2's discussion of liberal economic ideas which remains relevant is the importance of development as the standard of success. Economic development is also the standard of success of socialism, but with greater emphasis on the distribution rather than the generation of wealth. One of the Cold War's most persistent features was the debate over the relative success of the capitalist and communist blocs in achieving growth. Yugoslavia's effort to develop an alternative system of economic development - using some familiar ideas of markets and profits but within a centrally established agenda and with a concern for distributing wealth to ensure social as well as economic advancement - fitted between the two principal camps. The hope was for Western levels of development and growth with socialist values of equitable distribution, full employment and generous social provision. At a basic level there is therefore a convergence of the legitimising value of both the Yugoslav and the Western orthodox models of legitimacy.

Yugoslavia's involvement in promoting the New International Economic Order and North-South issues links the domestic success of its self-management socialist model to a broader international debate about economic development. It also connects it to the question of order because of concerns about the economic failure of the South leading to instability and war. The greater the success of the Yugoslav economy the more powerful the example it set abroad. Domestic success generated legitimacy and strengthened the challenge to the legitimacy of the Western capitalist model.

The four elements of Yugoslavia's legitimacy linked to liberal economic ideas are:



1. Self-management socialism.
2. Economic success.
3. Economic development for the whole country.
4. Tito.

### *Self-Management socialism*

The self-management system adopted many market economic practices, making it attractive to Western countries whilst retaining its socialist vision and values as important legitimising features. Profit was to be the standard of success for enterprises, although it would protect enterprise interests and be distributed among the workers, rather than supporting extravagant consumption by capitalist barons.<sup>82</sup> Broadly market principles would govern relations between enterprises.<sup>83</sup> Yugoslavia's international outlook and alienation from the Soviet bloc meant it had to be competitive in world markets, requiring efficiency and concern for issues such as comparative advantage. Supply and demand would determine production levels, rather than central *diktat*, encouraging enterprises to seek new markets to boost production and profit to distribute to the workforce.<sup>84</sup> Bank loans were at ostensibly commercial interest rates and on commercial conditions.<sup>85</sup> At least, this was how it was supposed to work.<sup>86</sup>

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82 Lydall, *Yugoslavia in Crisis*, 76-79. For a description of how the self-management system was introduced into Yugoslav politics see Rusinow, *The Yugoslav Experiment*, 62-70.

83 Rusinow, *The Yugoslav Experiment*, 64.

84 Ibid.

85 Ibid., 128.

86 MacFarlane, *Yugoslavia*, 86-173 gives a useful summary of the development of Yugoslavia's economic system.

The economic workings of self-management also fell prey to the centralising-decentralising tension in Yugoslav political life. The LCY's heritage as a vanguard party meant party interference with the operations of the economic system continued.<sup>87</sup> Prior to 1965, central control over investment decisions was considerable, with a central fund to invest in the under-developed regions. After this date firms were taxed for this purpose, the revenue going into a special Fund for the Development of Underdeveloped Regions.<sup>88</sup> The use of economic plans, even ones unlike those of the Soviet Union, retained a framework of central control, targets and expectations limiting the options open to enterprise managers.<sup>89</sup> Communal ownership of property and capital also tended to divorce those taking risks from the consequences of failure. This encouraged reckless borrowing and spending because the Federal government would ultimately have to step in and rescue enterprises that got into trouble.<sup>90</sup>

The reforms of the 1960s and 1970s weakened the centre in the economic decision-making process and strengthened the regions. Republican and Provincial measures of success supplanted those referring to the country as a whole. The powerful local party leaderships intervened to put pressure on local businesses to meet Republican and Provincial political targets. The political system, the federal structure and the way in

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87 The point is forcibly made by Lydall, *Yugoslavia in Crisis*, 79.

88 Ramet, *Nationalism and Federalism*, 33. Rusinow, *The Yugoslav Experiment*, 119, 128-130.

89 Lydall, *Yugoslavia in Crisis*, 102-119 gives plenty of examples of this sort of thing.

90 Lydall gives examples of "political factories" built to fulfil ideological or political goals rather than economic ones and their repeated bailing out. *Ibid.*, 82-87.

which the self-management system worked created a set of pressures driving the regions towards autarky.<sup>91</sup>

The Federal obligation to help bail out insolvent firms encouraged investment decisions driven by political criteria and abuse of the banking system which was largely owned by industrial firms.<sup>92</sup> The early strong emphasis on heavy industry, a hang-over from the Communist tradition, saw the establishment of many mining, ore processing and heavy manufacturing enterprises in areas that could not sustain them. The fear of alienating local opinion and of rendering the region dependent on another kept these open. Such 'political factories', established to industrialise the workforce as well as the economy, often turned into almost bottomless pits of debt. Shutting them was impossible because of the employment implications and the investment of political and nationalist capital.

By the standards of a liberal economy, with its emphasis on free movement of goods, capital and labour, capital holders free to choose where to invest on the basis of comparative advantage, and prices determined on the principle of supply and demand, the Yugoslav economy was not a great success. Perhaps the freest movement of labour was out of the country to Western Europe, especially to West Germany.<sup>93</sup>

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91 Pedro Ramet, "Apocalypse Culture and Social Change in Yugoslavia," in *Yugoslavia in the 1980s*, ed. Ramet, 8. C. Martin and L. D'Andrea Tyson, "Can Titoism Survive Tito?" in *Yugoslavia in the 1980s*, ed. Ramet, 186-189. They place particular emphasis on the economic reforms of the 1970s in exacerbating this tendency. Ramet, *Nationalism and Federalism*, 176-216 gives three case studies of economic controversies in Yugoslavia and the way in which economic decision-making was overwhelmed by regional political interests.

92 Lydall lists some of the more spectacular failures and examples of politically motivated investment decisions. Lydall, *Yugoslavia in Crisis*, 82-87.

93 Rusinow, *The Yugoslav Experiment*, 203, 251.



*Economic success*

Despite this, the Yugoslav economy worked relatively well for thirty years. Growth tended to be in fits and starts but it did undoubtedly take place.<sup>94</sup> The Yugoslav system represented a seemingly viable Third Way between capitalism and Soviet-style state socialism. Even Yugoslavia's growing reliance on cheap foreign credit during the 1970s, as banks sought to invest the flood of petro-dollars following the first oil shock, did not raise alarms. Yugoslavia was hardly alone in seeking to finance investment and expansion, and consumption, through foreign loans.<sup>95</sup>

Until the late 1970s, the people of Yugoslavia were generally getting richer, trade was increasing and Yugoslavia looked to be turning itself into an advanced, industrialised and prosperous state.<sup>96</sup> Yugoslavia was a success; it was developing and therefore meeting the expectations of socialism, gaining legitimacy from meeting the local standards.

*Economic development for the whole country*

If the overall picture of the Yugoslav economy prior to 1979 was generally encouraging the hopes of spreading development throughout Yugoslavia remained

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94 Lydall, *Yugoslavia in Crisis*, 24.

95 Ramet, "Apocalypse Culture and Social Change," 8. Lydall gives figures. *Ibid.*, 49.

96 MacFarlane, *Yugoslavia*, 104-130. Figures on trade, production, income in Ramet, *Nationalism and Federalism*, 31, 33. Lydall, *Yugoslavia in Crisis*, 41, 174-175.

unfulfilled. The disparities in wealth and prosperity between the rich North and the poor South widened.<sup>97</sup>

The problems of unequal development and distribution of wealth were particularly acute because the regime had given their elimination considerable priority and because of the shifting concentration of power to the Republics and Provinces.<sup>98</sup> The economic development of the Republics and Provinces in comparison with one another became a crucial political measuring stick and battlefield.

The large-scale, centrally directed investment of the early years of Communism had combined with a favouring of heavy industry to establish large, politically motivated and economically dubious factories in Macedonia, Kosovo, Bosnia and parts of Serbia. Some of these became successes, but many others failed, becoming a drag on local economies and requiring Federal support. This was resented in the more prosperous and market minded Republics of Croatia and Slovenia.<sup>99</sup> These Republics took on the more profitable manufacturing and processing industries, using the raw materials generated by the South.<sup>100</sup> Considering the richness of many of the raw material deposits in the South, this seemed like a sensible division of labour.<sup>101</sup> The view of these differences as nationally motivated meant they became a way of measuring the state of play in the competition between the national groups, rather than the application of the principles of comparative advantage and the division of

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97 Figures in Ramet, *Nationalism and Federalism*, 30, 31.

98 Ibid., 31.

99 Ibid., 32.

100 Ibid.

101 Ibid., 31.

labour within an all-Yugoslav economy linked to the globalising international economy.

Where Yugoslavia did gain from its relative openness to the international economy was through the large-scale remittances from its migrant workers abroad. The money being sent home to families certainly helped legitimise the system of engagement with the West. Tales of high wages and abundant consumer goods were less helpful, providing an entry for liberal economic ideas to challenge self-management socialism.

### *Tito*

Tito's role in the economic system, as in so much of Yugoslav life, was instigator and guardian. His support for the principle of self-management and his final decision on the pace of reform and liberalisation in the 1950s and 1960s, gave the stamp of authority to the system.<sup>102</sup> His unique position in the system backed up the claims of the LCY and its regional components to be the legitimate managers of the economy, rooted in Communist approaches to the role of the party. The system of representing workers in the management of plants through an increasingly complicated collection of assemblies, caucuses and institutions appeared to give the system some meaning.<sup>103</sup> As long as the Yugoslav economic system was not suffering too badly in comparison with the West, and was seen to be out-performing the Soviet bloc, the Party's position as economic manager was relatively safe, even though that success was as much in

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<sup>102</sup> Tito's role as arbiter in disputes and guarantor of decisions is mentioned in most of the accounts of political reform cited above.

<sup>103</sup> Rusinow devotes much attention to the complicated and frequent reforms of the system. Rusinow, *The Yugoslav Experiment*, 47-70, 112-120, 172-179, 192-229, 255-273, 326-352.



spite of the Party as because of it. Tito was an important legitimising factor for Yugoslavia's economic system because of his embodiment of the country and position as guardian and guarantor of the whole distinctive political and economic structure.

Therefore, the relationship between the Western orthodox model and the locally specific legitimising factors of the Yugoslav economy was a limited one. The main link lies in Yugoslavia's efforts to use the ability of the market model to generate wealth and link this with a socialist desire to distribute the wealth fairly and generate greater equality, not just between classes but between regions of the country. As issues of wealth distribution and equality were standard parts of Western social democracy and the Keynesian model of capitalism the differences could be presented as matters of degree, rather than of fundamental principle. Certainly, in an era dominated by geopolitical concerns and the need to preserve the basis of order in Europe to avoid a nuclear war, the issue of the Yugoslav economic system was inevitably a secondary one. Again, though, an appreciation of the value systems involved and the political restraints stemming from them leads to a better account of the relationship between Yugoslavia and the West and also of the domestic legitimisation of Yugoslavia's political and economic systems.

### 3.6 Conclusion

Understanding the legitimacy of Yugoslavia and its political and economic systems, and how they related to the West, shows we need more more than a narrative of Yugoslav foreign policy to appreciate the web of value systems which not only supported the legitimacy of Yugoslavia but which bound it to the orthodox Western model.

Yugoslavia's legitimacy in the thirty five years after World War Two was strongly influenced by the international climate of the Cold War and its emphasis on order through the operation of the states-system. In the three years before splitting with the Soviet Union the needs of maintaining the Yalta settlement allowed Yugoslavia to get away with an aggressive, revisionary stance in the Balkans, covertly intervening in Greece and demanding border changes over Trieste. After 1948 Yugoslavia played on respect for borders, sovereign equality and territorial integrity in defence of its somewhat precarious existence between the two Superpower blocs and in support of its work in the Non-Aligned Movement.

These components of legitimacy all had important domestic aspects as well. The Partisan tradition and the citizen militia defence doctrine reflected fears of possible Soviet aggression. Non-Alignment added to the distinctiveness of the Yugoslav political system. The success of advocates of de-centralisation and liberalisation within self-management socialism helped Western governments legitimise their support on grounds other than power political ones. The locally specific socialist legitimising value system coincided, sometimes accidentally, with Western liberal

political ideas. Pragmatism ensured this was used by both Yugoslavia and the West to bolster a relationship built on shared strategic interests in protecting Yugoslavia from re-incorporation into the Eastern Bloc.

Yugoslavia's handling of the nationalism issue also shows the influence of domestic needs and a willingness to consider international expectations. Rather than adopt a hard-line Marxist attitude and treat nationalism as a bourgeois tool of division and a false consciousness, Yugoslavia largely abandoned efforts to forge a unified identity and protected the distinctive identities of its principal communities. The relative success of the political and economic systems during this period enabled Yugoslavia to avoid serious problems of exclusive ethno-nationalism. However, the system never resolved the dilemma of multiple identities constructed on an exclusive basis, reflecting similar problems within the liberal tradition of politics and its relationship with a states-system stressing the exclusive rights of statehood.<sup>104</sup> As the balance of power in Yugoslavia shifted toward the Republics and Provinces and away from the Federal government the system came to reflect these same problems and dilemmas. Success and the presence of Tito and other war-generation leaders willing and able to stamp out any attempt by local leaders to exploit ethnic nationalism side-stepped the problems.

Economically, Yugoslavia benefited from foreign investment and loans, tourism and the remittance of money earned by migrant workers. Economic development and success through engagement with the international economy on the basis of a form of socialism self-consciously including market elements helped the Yugoslavs legitimise

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<sup>104</sup> See above, 2.5.



their economic system and the West legitimise assisting Yugoslavia. Coincidence of local and international spheres of legitimacy points to the domestic-international connection rather than divide.

This summary of the legitimacy of Yugoslavia and its relationship with the West rests on looking at the roots of the relationship in structures of ideas behind both Yugoslavia's legitimacy and that of the orthodox Western model. This suggests a way to look at the collapse of Yugoslavia by considering not just the failure of policy and the growing economic problems of the country during the 1980s, but showing how these relate to changing values within Yugoslavia and in the Western world. This should show how the props of Yugoslavia's legitimacy, both domestically and in how it related to the wider world, fell out from under the country and its political and economic system.

## Chapter 4

### *Legitimacy and the fall of Yugoslavia:*

#### *the crisis of the 1980s*

##### 4.1 Introduction

The 1980s was a decade of great international change, ranging from the second Cold War, through a new era of détente and ending with the spectacular collapse of communism in Eastern Europe. In the international economy, the debt crisis caused a ‘lost decade’ of development in the Third World and the growing influence of the international financial institutions carried a new economic liberal orthodoxy around the world, reinforced by the Uruguay Round GATT negotiations aiming at an ambitious liberalisation of international trade.

It was also a bad decade for Yugoslavia. The trends emerging in the 1970s all accelerated during the 1980s: a greater concentration of power in the Republics; the growing tension between centralising and decentralising tendencies; rising ethno-nationalism with an explicit link between nationality and the federal units; regional economic disparities; and the paralysis of political leadership at the Federal level. In 1979 and the first years of the 1980s the death of Tito, Kosovo riots sparking a major resurgence of Serb nationalism, serious economic crisis, paralysis among the LCY's federal leadership, and internal wrangling in the NAM over how to react to the Soviet invasion of Afghanistan served to seriously damage the most important pillars of legitimacy.

This Chapter will try to show how the interaction of domestic and international events during the decade reflects a decline of the socialist legitimacy of Yugoslavia, opening a vacuum. There were two principal responses to this vacuum leading to a clash between those trying to join the orthodox, Western model and others seeking new local sources of legitimacy rooted in ethno-nationalism. Interestingly, and providing some support for the ability of the Western model to penetrate non-Western approaches to legitimacy, the ethno-nationalist camp felt it necessary to appeal to many of the same goals and adopt some of the same mechanism as those trying to join the West. The different legitimacies were more about different value systems and ideas than necessarily being about different mechanisms, institutions and procedures.

This chapter follows the basic approach of the last one, taking each of the three spheres of the orthodox Western model of legitimacy in turn. Once again, this will try to show how the domestic and international aspects of legitimacy interact and to highlight the ability of the Western model to penetrate into the local legitimization of Yugoslavia.

#### 4.2 The states-system

**T**he purpose of this section is to attempt to examine the relationship between the major political developments in the decade leading up to the dissolution of Yugoslavia and the developing international political climate in the 1980s. This will demonstrate the states-system's importance as a contextual factor in the decline of Yugoslavia's legitimacy both in its ability to draw legitimacy from being in the



normative mainstream and the damage done to locally specific legitimising factors by the transformation of the international political landscape.

By the 1980s the number of former Partisans who had led the 'liberation struggle' was dwindling. This undermined the ability of national leaders to claim authority over domestic squabbles and removed figures of international stature. Tito, of course, is the most obvious. After his death in May 1980 there was no one to personify Yugoslavia.<sup>1</sup> In terms of the international environment this diminished the perceived ability of Yugoslavia to speak with a coherent and authoritative voice. Answering the pragmatists' question, "Who's in charge?" became more difficult, especially towards the end of the decade. The introduction of a collective Presidency with the chairmanship rotating on a yearly basis and the declining ability of the Federal Executive Council to implement national decisions in the face of regional resistance exacerbated this problem.

The rise of regional influence extended to the international environment through the growing use of Republican and Provincial trade missions abroad as *de facto* regional diplomatic missions. These were one external manifestation of the dissolution of Yugoslavia's internal coherence, as the tendency towards autarkic economic policies and increasing nationalism gathered pace.<sup>2</sup>

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<sup>1</sup> Pedro Ramet, "Apocalypse Culture and Social Change," in *Yugoslavia in the 1980s*, ed. Pedro Ramet (Boulder: Westview, 1985), 5. Harold Lydall, *Yugoslavia in Crisis* (Oxford: Clarendon Press, 1989), 4. Phyllis Auty, *Tito: a biography* (London: Longman, 1970), 246-263. Othmar Nicola Haberl, "Yugoslavia and the USSR in the Post-Tito Era," in *Yugoslavia in the 1980s*, ed. Ramet, 277.

<sup>2</sup> See above, 3.4 and 3.5.

Even within the traditional mechanisms of Yugoslav foreign policy, events undermined the country's international position and high profile. The crisis in the NAM following the Soviet invasion of Afghanistan, a NAM member, marked a nadir for the organisation Tito helped to found and which had been an important instrument of, and forum for, Yugoslavia's role as an international actor.<sup>3</sup> The more radical, pro-Soviet countries, led by Cuba, fought against condemning the attack and the proposals by the more moderate members, including Yugoslavia, for the complete withdrawal of all foreign forces in Afghanistan. The dispute undermined the NAM's basis in respect for the principles of sovereignty, non-intervention and territorial integrity. Months of internal struggle before reaching agreement on a position added to the organisation's woes and its appearance of ineffectiveness. This was especially alarming for Yugoslavia because of its particular fear that Soviet expansionism and aggression would eventually be directed its way. Failure to react clearly and unambiguously to such a breach of principles strongly supported by the NAM hammered another nail into its coffin and with it the principal mechanism by which Yugoslavia had made itself heard on the international stage.<sup>4</sup>

Yugoslavia's foreign policy goals became more limited. It concentrated on issues in the Mediterranean and the Balkans, and also became prominent in the Conference on Security and Co-operation in Europe following the signing of the Helsinki Final Act in 1975. Involvement in North-South issues, which had begun within the NAM,

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3 This account of Yugoslavia, Afghanistan and the NAM relies principally on Zachary T. Irwin, "Yugoslav Nonalignment in the 1980s," in *Yugoslavia in the 1980s*, ed. Ramet, 257, 262, 265.

4 Fred Singleton, "Yugoslavia's Defence and Foreign Policy in the Context of Non-Alignment," in *Yugoslavia's Security Dilemmas: Armed Forces, National Defence and Foreign Policy*, ed. Marko Milivojevic, et al. (Oxford: Berg, 1988), 189-191 on the decline of the importance of the NAM to Yugoslav foreign policy after the invasion of Afghanistan and the rise of the "radicals", led by Cuba who sought to take the movement closer to the Soviet Union.



continued on a more independent basis. Yugoslavia scaled back its diplomatic missions as economic problems increased, and generally played a far less prominent role in international affairs.<sup>5</sup> Hopes that it would be able to set a successful example to Asian and African countries seeking a way to develop without tying themselves to the Soviet or Western blocs disappeared under the weight of its own economic crisis.<sup>6</sup>

Yugoslavia was losing international competitiveness. This undermined the ability of the leadership to draw prestige from appearing at international events and conferences and weakened the importance of Yugoslavia in the eyes of other international actors.

More generally, the shift in the international environment reduced Yugoslavia's ability to draw legitimacy from the states-system. The development of a new period of détente between the United States and the Soviet Union after the accession of Gorbachev in 1985 reduced the distinctiveness and relevance of non-alignment as a foreign policy stance, attacking one of the central features of the Yugoslav political ethos. Dramatic changes in East-West relations, even before the collapse of Communism in the autumn of 1989, were already calling into question the validity of a policy that had become a corner-stone of Yugoslavia's identity, both domestically and internationally.<sup>7</sup> The states-system was a less comfortable and reassuring place for Yugoslavia to be, despite the decline in the threat represented by the Soviet

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5 Haberl, "Yugoslavia and the USSR," 278.

6 Stephen K. Pavlowitch, *The Improbable Survivor: Yugoslavia and Its Problems, 1918-1988* (London: C. Hurst and Co., 1988), 119-123. Singleton, "Yugoslavia's Defence and Foreign Policy," 189-191. Bruce MacFarlane, *Yugoslavia: Politics, Economics and Society* (London: Pinter, 1988), 184-193.

7 MacFarlane points to competing pressures on Yugoslav policy-makers to continue to promote non-alignment whilst shifting to market economic relations with other countries. MacFarlane, *Yugoslavia*, 186, 188. He also stresses the power of Tito's legacy in tying his successors to non-alignment and the NAM, 191. Irwin, "Yugoslav Nonalignment," 249-250 stresses the legitimacy that the global scope of non-alignment attached to the Yugoslav system.



Union.<sup>8</sup> Order through interaction and co-operation rather than through minimal contact and respect for the classic principles of the states-system reflected the changing social construction of legitimacy. Yugoslavia failed to adapt rapidly enough, reducing the power of its example.

The closer relationship between the Soviet Union and its former adversaries in the West was to have an important impact on Yugoslavia as it broke up during 1991. The threat of the collapse of the Soviet Union and the 'loss' of Gorbachev was also developing at the same time and bolstered the determination of Western powers to maintain the principles of territorial integrity and the inviolability of borders emphasised by the states-system in pursuit of order.<sup>9</sup> This implies the importance of the states-systemic value of order as providing a fall-back position in times of uncertainty and crisis. Certainly, as the Soviet Union teetered on the brink of collapse Yugoslavia could not be allowed to set dangerous precedents of secession by constituent republics.

The dramatic collapse of Eastern Europe's Communist governments at the end of 1989 came at a particularly crucial moment for the LCY. It was on the eve of its Fourteenth Party Congress, held in January 1990.<sup>10</sup> Serious domestic political and economic crises already threatened to render the Congress a disaster that might split the LCY. They were exacerbated by the sudden shattering of communism in Eastern Europe. The widespread abandonment of the political philosophy underpinning

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8 Haberl, "Yugoslavia and the USSR," 287-293.

9 See below, 6.2.

10 Peter Ferdinand, "Yugoslavia - Beyond the Beginning of the End?" *Journal of Communist Studies* 6 (1990): 101-102.

Yugoslavia's political system and which legitimised the LCY as the vanguard of the revolution and the repository of political wisdom dealt a massive blow to Yugoslavia's political institutions. The value system of communism which had legitimised the political structure of Yugoslavia was now rejected. The battle between competing alternatives, simmering in response to the growing crisis of the 1980s could be openly joined.

The Slovene government decided to move to a multi-party political system, a market economy, and participation in Western Europe's move towards closer integration.<sup>11</sup>

The Croatian government began to look upon this as the only available option, especially as the effect on the more hard-line elements in Serbia, Montenegro and the Yugoslav People's Army (JNA) was a reaffirmation not only of their determination to re-establish stronger central control over Yugoslavia but to add a distinct Serb nationalist element to this. A siege mentality was developing in these Serb dominated institutions. This became more acute after the failure of the Party Congress and the beginning of multi-party elections throughout Yugoslavia.<sup>12</sup>

The deepening economic crisis as the 1980s wore on reinforced a growing tendency among the more conservative elements to look for external causes of Yugoslavia's problems and to see conspiracies abroad attacking the country.<sup>13</sup> The armed forces

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11 Slovenia's movement towards a multi-party system and market economy with a strongly European outlook is a strong feature in Bogomil Ferfila, "Yugoslavia: Confederation or Disintegration?" *Problems of Communism* 40 (1991). Also Carole Rogel, "Slovenia's Independence: a Reversal of History," *Problems of Communism* 40 (1991).

12 A valuable account of the developments within the JNA at this time and their move towards the position of Serbian leader Milosevic is Lenard J. Cohen, *Broken Bonds: the Disintegration of Yugoslavia* (Boulder, Colorado: Westview Press, 1993), 181-192.

13 For example, this was an accusation made by Prime Minister Branko Mikulic in March 1987. Quoted in Pavlowitch, *The Improbable Survivor*, 148. Similar complaints also arose over conditions attached by the IMF to rescheduling Yugoslavia's foreign debt and to new loans. Lydall, *Yugoslavia in Crisis*, 51, n.

were particularly prone to this and they played an increasingly prominent role in politics during the 1980s. Their role became more and more politicised,<sup>14</sup> partly out of a recession induced concern for their share of the budget,<sup>15</sup> but also for more internationally significant reasons. These demonstrate the continuing power of the classical, Realist principles of the states-system, including the expectation of a unified defence identity and clear central direction of a state's foreign and defence policies.

The JNA's position within the LCY had been strengthening for a number of years through its own party organisation and it came to operate as the ninth element in a kind of "8 + 1" relationship within the LCY's federal mechanisms.<sup>16</sup> Not surprisingly, it aligned itself with the centralising elements of the party because of its own centralised, hierarchical and disciplinarian nature.<sup>17</sup> Reforms to the structure of the domestic secret police and other security services in the 1960s and 1970s had also brought these under military control.<sup>18</sup> This was backed by growing Serb and Montenegrin domination of the lower ranks of the officer corps (top jobs were appointed according to the ethnic key) at a time when Serb opinion as a whole was moving strongly in a centralist, nationalist direction. The trend was accelerated after

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14 Marko Milivojevic, "The Political Role of the Yugoslav People's Army," in *Yugoslavia's Security Dilemmas*, ed. Milivojevic, et al., 16. He discusses the trends and developments, including economic difficulty and political paralysis that might lead to military coup, 37-59.

15 Robin Alison Remington, "Civil-Military Relations in Post-Tito Yugoslavia," in *Yugoslavia in the 1980s*, ed. Ramet, 66.

16 Ibid., 31-37. Also, James Gow, "Legitimacy and the Military," in *Yugoslavia's Security Dilemmas*, ed. Milivojevic et al., 70. See also James Gow, *Legitimacy and the Military: the Yugoslav Crisis* (London: Pinter, 1992) and the section on military legitimacy and state cohesion in Cohen, *Broken Bonds*.

17 Remington, "Civil-Military Relations," 45.

18 Milivojevic, "The Political Role of the Yugoslav People's Army," 20, 22, 38. Also *ibid.*, 58.



May 1986 when Slobodan Milosevic became President of the League of Communists of Serbia.<sup>19</sup>

The reins of power were increasingly running through the hands of the military and their primary role was the defence of Yugoslavia as a coherent whole. This depended on the maintenance of monolithic, national armed forces, acting within a clear framework of national defence and foreign policies. As well as being institutionally important to the JNA, as they are to all militaries, centrally organised defence forces and defence and foreign policies are also classical attributes of statehood. This reinforces the close link between the military and the states-system within which it aims to ensure the state's continued survival. As the possibility of Yugoslavia's break-up came closer in 1990 and the first half of 1991, JNA leaders, including defence minister General Velko Kadijevic and former defence minister Admiral Branko Mamula, increasingly identified internal "anti-socialist", "anti-Yugoslav" and "nationalist and separatist forces" as the prime threat to national security.<sup>20</sup> Cohen asserts this reflected a definite shift in Yugoslav military thinking about its role away from protecting the integrity of the state from external attack to protecting the integrity of the state against internal dissolution.<sup>21</sup> Their prime enemies now became the confederalist and separatist anti-Communist nationalists who were to succeed so dramatically in the Croatian and Slovenian elections of spring 1990.

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19 There is a useful, chronological account of the rise of Serb nationalism in the 1980s in V. P. Gagnon, Jr., "Yugoslavia: Prospects for Stability," *Foreign Affairs* 70 (1991).

20 Cohen, *Broken Bonds*, 186-187.

21 Ibid., 183.

The states-system reinforced pressure for a unified defence identity and combined with powerful political forces at work in Yugoslavia to drive the JNA firmly into the camp of centralising, pro-Serb forces. Their, to them, difficult and dangerous work in Kosovo to maintain some sort of peace, exacerbated this. The view that Kosovo would be, at best, a kind of “Balkan Northern Ireland” not surprisingly strengthened authoritarian tendencies.<sup>22</sup> The Albanian majority in a territory regarded as the heartland of the Serb nation, the high rate of demographic growth among the Albanian population, its border with Albania proper, the steady emigration out of Kosovo by Serbs, the growing climate of fear about possible secession and growing calls for Kosovo to be granted Republic status<sup>23</sup> made the JNA strongly supportive of the re-incorporation of the Autonomous Provinces into Serbia.<sup>24</sup> The need for a strong hand against perceived Albanian, Croatian and Slovenian secessionists strengthened military pressure for the re-centralisation of authority.<sup>25</sup> The need for any reduced Federation to present a unified face to the states-system in the search for re-legitimation may have helped drive this process.

The death of Tito had left the JNA as the last strong all-Yugoslav Federal institution.<sup>26</sup> The possibility of Yugoslavia being dismantled from within must have strengthened

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22 Pavlowitch, *The Improbable Survivor*, 93.

23 Ibid., 78-93.

24 This process began in 1988 and was completed when Kosovo's and Vojvodina's parliaments were forcibly closed in 1990. Dennison Rusinow, “Yugoslavia: Balkan Break-Up?” *Foreign Policy*, no. 83 (1991): 150-151.

25 This came to a head with the formation of the League of Communist - Movement for Yugoslavia in November 1990, led by ex-officers. Gagnon, “Yugoslavia: Prospects for Stability,” 26.

26 Gow comments on the JNA's “pan-Yugoslav” legitimacy. Gow, “Legitimacy and the Military,” 72-73, 92. I have not included the Federal Executive Council and the Federal Presidency because in the case of the latter in particular the members were generally responsible for protecting regional interests in a national forum. The FEC can hardly be described as a strong institution. Perhaps the only other institution that ranks alongside the military is the Federal Constitutional Court, although this too was to

military determination to maintain that unique position. The rapid political developments of 1990 made the protection of a unified defence identity and presentation of a single face to the states-system both more difficult and more important if the JNA and the idea of Yugoslavia as a state were to draw legitimacy from the principles of the states-system.<sup>27</sup>

Efforts by Slovenia in particular, but increasingly Croatia after the 1990 elections, to draw legitimacy for themselves from the states-system exacerbated the difficulties. They increasingly looked Westwards towards the European Community.<sup>28</sup> Slovenes especially emphasised their European, as opposed to Balkan, cultural tradition and movement towards a multi-party political system and a free-market economy. The message was going out that they were a European state, much like the other smaller members of the EC, and they therefore deserved the chance to join the West European mainstream.

In addition to political and cultural reasons, the Community's prosperity and peacefulness attracted the more developed, economically advanced Republics. They had borders with Austria, a country on the way to Community membership, and Italy, a Community member, and trade links and treaties with them, making independence within the context of an integrating Western Europe increasingly attractive. The

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collapse into ineffectiveness in 1990 in the face of democratically elected governments emphasising the rights of sovereignty for their Republics.

27 Ibid., 72-89.

28 Hafner points to the different social, political and economic styles and goals of North Western Yugoslavia. Danica Fink Hafner, "Political Modernization in Slovenia," *Journal of Communist Studies* 8 (1992): 211. Slovene proposals for a re-negotiated Yugoslav confederation in 1991 were modelled on the EC. Rusinow, "Yugoslavia: Balkan Break-Up?" 144. Pavlowitch points to the Westward looking nature of Slovenian nationalism from as early as the beginning of the 1970s. Pavlowitch, *The Improbable Survivor*, 76.



alternative - being tied to the authoritarian Serbs and the poor Montenegrins, Bosnians, Albanians and Macedonians within South East Europe - was, surely, second best. The idea of the EC as an orderly, peaceful, prosperous and successful group of countries helped to legitimise the ambitions of those like the Slovene government who wanted to take the Republic in that direction, especially at a time when international orderliness, the prime legitimising value of the states-system, was seen as moving towards engagement and co-operation, rather than minimising friction through minimising contact. Whilst the legitimacy of order has been suggested as being fairly universal, because of the global scope and general acceptance of the states-system, the idea of order through interaction is more limited and suggests penetration into the vacuum of legitimacy opening up in Yugoslavia by the evolving orthodox Western model.

The international environment and states-system must be taken into account in the collapse of Yugoslavia. The evolving climate of norms and values it provided and the standards and judgements that it delimited for both external actors and the constituent parts of Yugoslavia had overtaken an ossified system. Its local legitimising factors were of declining relevance to the population. The contradictions between the principles of territorial integrity and inviolability of borders on the one hand and the right to self-determination on the other became acute in Yugoslavia as the pressure for democracy and political freedom built up within a nationalistically charged environment, especially after the 1989 Revolutions in Eastern Europe. The compromise on self-determination resulting from the de-colonisation process - that only colonial territories had the right to self-determination and those national groups within them did not - broke down.

Therefore, as Yugoslavia entered its final crisis in the early 1990s, its international position as a prominent state with a leading role and a vision for changing the focus of international politics had largely disappeared. 1980s détente and the collapse of East European Communism dramatically altered ways of thinking about security and the basis of European order. The stress shifted away from military balance and nuclear deterrence to constructive engagement, building democracy and market economies and co-operation to sort out disputes through involvement rather than stressing classic means of non-intervention, territorial integrity and sovereignty. The power of these ideas and the liberal political values and mechanisms which they attempted to incorporate were particularly important in Slovenia and, to a lesser extent, Croatia. The orthodox, Western model of legitimacy offered to them a new set of values to legitimise a new Slovenia and a new, decentralised Yugoslav confederation. This clashed with alternative proposals, championed by Serbia, where ethno-nationalism would provide the core legitimising principle for a re-centralised Yugoslavia under Serb leadership. This clash between a Western approach and local ethno-nationalism can be seen by looking at the way in which Yugoslavia's politicians and political systems reacted to the crisis of the 1980s.

#### 4.3 Liberal political ideas

Yugoslav politics in the 1980s was characterised by the rise of extreme and powerful ethno-nationalism and the growing divide between those seeking to re-centralise political power and those trying to protect the position of the Republics and Provinces. These two phenomena were linked to one another and to the declining

power of local legitimising values and the rise in importance to some in Yugoslavia of the international environment of legitimacy.

Concern over the Serb treatment of Albanians in Kosovo following the 1981 riots marked the beginning of a spiral of fear. The principles of Brotherhood and Unity and the ability of the LCY to contain, if not to solve, nationalist problems found themselves facing a severe test: both were to fail. Kosovo sparked a resurgence of the kind of exclusive, ethno-nationalism that had been the great fear of Yugoslavia's leadership. By treating Republics as national homelands whilst emphasising their multi-national character they had hoped to contain national rivalry. This was backed by the civic-territorial nationalism of Brotherhood and Unity with its stress on the Yugoslav peoples coming together for mutual benefit whilst retaining their diversity and identity. Republican and Provincial leaderships played by the rules whereby they kept out of one another's affairs and made sure they did not stir up the sort of ethnic nationalism that could threaten to set the national groups against one another in a struggle for dominance.

The growing political paralysis at the all-Yugoslav level following Tito's death and the need to deal with an economic crisis provided the backdrop for the strongly nationalist reaction in Serbia to the Kosovo riots. Pressure grew for Serb rights to be exerted and for them to take the lead in Yugoslavia as the biggest single grouping. Growing economic difficulties led to economic nationalist pressures for the protection of the Serb economy. Slovenia led the opposite reaction, believing further liberalisation was the only way to meet the economic difficulties facing the country.



Croatia hovered between the two, with a developing liberalising agenda uneasily balanced with a nationalist reaction to Serbian bellicosity.

The situation took a turn for the worse when Slobodan Milosevic took power in Serbia as President of the Serbian branch of the LCY in 1986. His avowed nationalism and concern for the conditions of the Serb diaspora raised the spectre of intervention in the affairs of other Republics, breaking one of the principal rules of the Federal system. This meant a reversal in the trend the Yugoslav system had been following, with brief interruptions, since the late 1960s. What was perceived by many as progress was under threat and along with it the legitimacy of the system. The compromises of Brotherhood and Unity and regional autonomy through decentralisation, which balanced civic-territorial nationalism and exclusive ethno-nationalism, began to crack under the pressure of central political paralysis and a fundamental disagreement over how to respond to Yugoslavia's growing difficulties.

The question became how to renew the legitimacy of Yugoslavia to produce a political structure able to act with authority, to recall Ruggie's idea of authority as power with legitimate social purpose.<sup>29</sup> Yugoslavia needed to find a way to meet the economic crisis, the changing international situation and to break the political paralysis. The options were narrowed to trying to adapt the liberal elements of the self-management and federal systems to bring Yugoslavia into the Western mainstream, or to emphasise Serb ethno-nationalism as a way to legitimise Serb domination of a re-centralised authoritarian state.

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29 John Gerard Ruggie, "International Regimes, Transaction and Change: Embedded Liberalism in the Post-War Economic Order," in *International Regimes*, ed. Stephen D. Krasner (Ithaca: Cornell University Press, 1983), 198.

The federal structure, the principle of consensual decision-making, rotating government posts and the ethnic key broke down as a conflict-resolution mechanism in Yugoslavia during the 1980s. The paralysed federal structure, in the face of a growing need for decisive action, served to polarise the Republics and Provinces by hardening their diverging views on what needed to be done. Croat and Slovene support for a free-market approach to restructure the Yugoslav economy and their desire for greater political autonomy and democracy flew in the face of the Serb view, backed by Montenegro, that only a strengthened centre could provide the clarity and purpose of action necessary.

Anything smacking of centralism was equated with Serb hegemony by Croatia and Slovenia and rendered unacceptable. Serbia's action in revoking the independence of the Autonomous Provinces at the end of the 1980s heightened suspicions. This division widened dramatically in 1990 as multi-party elections spread through Yugoslavia, reflecting the dramatic international shift brought about by the collapse of the Berlin Wall, itself the culmination of growing social tension throughout Eastern Europe as the region's political and economic systems failed to match popular expectations.<sup>30</sup>

The obvious failure of the existing system to adapt to changing circumstances and cope with growing crisis lost it legitimacy, exacerbated by the growing irrelevance to the population of legitimising stories rooted in World War Two and the years immediately following. Those pressing for a move towards the West were unable to

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30 Cohen, *Broken Bonds*, 79-223.

take the Western elements of the system and turn it into something approaching a Western, liberal democratic federation because of the crippling effect of increasingly bitter ethno-nationalist disputes, fanned by politicians such as Milosevic using them as a way to achieve power. The dispute became not just about political and economic reform, but about the basic value systems to legitimise Yugoslavia.

For Bosnia, the dilemma between centralism and de-centralism and their accompanying nationalist baggage was particularly acute because of its delicate ethnic relations.<sup>31</sup> Secession by the northern Republics, an increasingly realistic proposition after the 1990 elections in Croatia and Slovenia, threatened to launch a series of recidivist claims on its territory and to dismember the Republic.<sup>32</sup> Centralism meant Serb tutelage and a threat to the Croat and Muslim populations and their religious and cultural freedom. Bosnia was left to support a weak compromise based on a loose confederation of independent Republics, but with wide-ranging political reform to revitalise the federal decision-making apparatus in key areas of policy that needed to be settled at the all-Yugoslav level.<sup>33</sup> Whilst the confederal proposal was initially a Slovenian idea consciously modelled on the European Community, Bosnia, backed by Macedonia, became its prime supporter during tense and often confrontational negotiations among the Yugoslav Republics in 1990 and 1991.<sup>34</sup>

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31 Rusinow, "Yugoslavia: Balkan Break-Up?" 156-158 includes some of the dilemmas facing the Bosnian leadership in 1990 and 1991. Also Gagnon, "Yugoslavia: Prospects for Stability," 28 for the shift towards supporting secession should Slovenia and Croatia split from Yugoslavia.

32 Such noises were coming from the Croatian Democratic Union (HDZ) under Franjo Tudjman which won the April 1990 elections on a nationalist and secessionist platform that included claims on parts of Bosnia-Herzegovina. This prompted Serb counter claims to the territory, developing pressure for all Serbs to be united in a greater Serbia which had been receiving official support. Ferdinand, "Yugoslavia - Beyond the Beginning of the End?" 103. Rusinow, "Yugoslavia: Balkan Break-Up?" 146.

33 Rusinow, "Yugoslavia: Balkan Break-Up?" 153 on Bosnian efforts to broker a compromise at the 14th LCY Congress.

34 Cohen, *Broken Bonds*, 115-219. For details of the confederation proposal made by Slovenia see Ferfila, "Yugoslavia: Confederation or Disintegration?" 24-26.



The ability of the north-western Republics to use the latitude in the self-management and federal systems to maintain relatively high levels of free speech and a free press was increasingly threatened by hard-line centralist forces, usually identified with Serb nationalism, looking to re-cast Yugoslavia as a Serb-led country reflecting an exclusionary nationalist agenda. Growing economic crisis and unrest, characterised by waves of strikes in protest at spiralling inflation, added to the pressure for a crack-down from some quarters.<sup>35</sup> For the more liberal Republics, protecting and extending the political system they had developed required formalising it through the adoption of liberal mechanisms of democracy and constitutionally guaranteed rights. This was reinforced by the international climate and the outward looking nature of Slovenia's political elite in particular. In Croatia the pressures pulled both ways, the desire to 'Westernise' the political system was part of Croat ethno-nationalist revivalism aimed at electing the Croatian Democratic Union (HDZ) with its exclusive Croat nationalist programme.

The instability and uncertainty created by the 1989 Revolutions, especially in Romania, ensured that centralisers pressed for a concentration of power because of the danger of instability spreading to Yugoslavia.<sup>36</sup> They were appealing to the needs of order, the need for Yugoslavia to insulate itself from an unstable and potentially dangerous international situation, at least as they saw it. The Fourteenth Party Congress was characterised by bitterness, recrimination and threats, finally collapsing as the Slovene delegation walked out after announcing multi-party elections for the

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35 Ferdinand, "Yugoslavia - Beyond the Beginning of the End?" 99.

36 Rusinow, "Yugoslavia: Balkan Break-Up?" 152.

Spring. This made any agreement impossible because of the unanimity and consensus principles, although the Serbs pressed for the Congress to continue without the Slovenes. This was opposed by the military, Croat and Bosnian delegations. Croatia also announced its intention to hold multi-party elections.<sup>37</sup> The Congress collapsed, “The Communist party of Yugoslavia, creator and sustainer of the second Yugoslav state, had self-destructed.”<sup>38</sup>

The Republican focus of Yugoslav political action and the nationalistically and economically driven competition between the regions now culminated in the introduction of pluralist political practices. The efforts by the Federal Executive Council under Ante Markovic to establish itself as an independent and consciously all-Yugoslav political party were doomed because of a political culture that had become disillusioned with the Yugoslav idea.<sup>39</sup> Elections became the means by which particularistic and nationalist interest could achieve legitimacy for their programmes via the ballot box.

This is indicative of the penetration into the Yugoslav vacuum of the Western orthodox model. It also highlights some of the dilemmas and problems which would face those outside Yugoslavia trying to come to terms with the transformation in its political system. Those seeking to base the legitimacy of a new Yugoslavia on exclusive ethno-nationalism felt the need to adopt the procedures of the liberal political system. Elected legislative assemblies and Presidents provided the appearance of liberalism, attracting legitimacy to those pursuing illiberal, ethno-

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37 Ferdinand, “Yugoslavia - Beyond the Beginning of the End?” 101-102.

38 Rusinow, “Yugoslavia: Balkan Break-Up?” 153.

39 See Cohen, *Broken Bonds*, 66-73, 88-107, 139-160.

nationalist policies that would ultimately lead to 'ethnic cleansing' and atrocities not seen in Europe since World War Two.

This use of electoral politics by Milosevic and others points to the need for a better understanding of the roots of procedures and institutions seen as granting legitimacy. The proliferation of votes among groups unhappy with their status, such as the Krajina Serbs in Croatia, shows how the legitimacy of an electoral mandate was being used for ethno-nationalist and power and security purposes to claim sovereignty and statehood on the basis of national self-determination and thus the protection of the rules of the states-system. The procedures and institutions of democracy legitimised ethno-nationalist political programmes with un-democratic and illiberal outcomes. The problems ethno-nationalism in particular creates for those promoting the institutions and ideas of a *liberal form* of politics were thrust to centre-stage by the way elections were used in Yugoslavia.<sup>40</sup>

The legitimising power of the self-management system had declined throughout the 1980s because of its inability to fulfil expectations and meet demands. Where Yugoslavia's political system had been responsive was in decentralising power as far as the regional governments that were the focus of popular political concerns, backed by identity with the region as the national 'homeland', but within a structure denying the legitimacy of ethno-nationalism.

The Communist system and its paralysis and failure in the 1980s thus contributed greatly to the fissiparous tendencies that pluralism and the adoption of democracy

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40 See above, 2.5 for a discussion of nationalism and political liberalism. See below, 6.3 for an account of the problems and dilemmas faced by the international community in responding to this situation.



were cynically designed to foster and exploit in pursuit of particular interests. This points to the limited penetration of the system by fully fledged liberal political ideas with their belief in limited government, liberty and tolerance of diversity. It also highlights the importance of a civic-territorial nationalist tradition. In Yugoslavia this had also been damaged by the failures of the 1980s.

Efforts to save Yugoslavia as a territorial unit during 1990 and 1991 focused on proposals for a confederation, with the emphasis on the sovereignty of the constituent units.<sup>41</sup> The proposals were deeply distasteful to the Serbs, Montenegrins and JNA. Serbian leaders became increasingly insistent that all Serbs live within a single state. This would mean the extensive re-negotiation of borders if any Federal unit wished to secede. The Serbs of Croatia were alarmed by the insensitivity of some of the new Croatian government's statements and its avowed intention to reverse the disproportionate representation of Serbs in state jobs. They regarded Serb, Montenegrin and JNA statements as a promise of protection and began their own moves towards establishing an autonomous territorial unit.<sup>42</sup> The growing tendency of the JNA to intervene in Croatia in 1990 ostensibly to protect Serbs provided a graphic demonstration of the rights Serbs were claiming as the largest ethnic group in Yugoslavia.<sup>43</sup>

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41 Details of the proposed confederation can be found in Ferfila, "Yugoslavia: Confederation or Disintegration?" 24-26. For an account of the negotiations on this proposal see Cohen, *Broken Bonds*, 195-219.

42 For the development of what became known as the 'Knin Republic' see Cohen, *Broken Bonds*, 126-134.

43 Ibid., 211.

The JNA provides an example of this contradiction between apparent liberalism and the usurpation of the mechanisms of democracy for illiberal and anti-democratic purposes. The JNA was partly a victim of its own ethnic composition, dominated by Serbs and Montenegrins.<sup>44</sup> The nationalistically charged political environment in Yugoslavia during the 1980s, heightened by economic crisis within a system that measured success in Republican and Provincial terms, raised the spectre of national dissolution and secession. Inevitably, JNA backing for those groups calling for a stronger centre to impose reform and get the country out of its economic hole was associated with Serb hegemony. The JNA could not insulate itself from the rise of Serb nationalism that accelerated with party encouragement after Milosevic took control in May 1986.<sup>45</sup> The JNA's federal character became one of blatant, rather than nascent, pro-Serb nationalism as it sided with the Serb leaders during the increasingly bitter arguments of 1989 and 1990.<sup>46</sup> Threats of military intervention or the imposition of martial law in any Republic threatening secession became more open.<sup>47</sup>

The Serbian government led this move, despite the JNA being ostensibly under the command of the collective Federal Presidency.<sup>48</sup> The failure of the operation in Slovenia following its independence declaration in June 1991 reflected both military incompetence and the dominance of the goal of Serb unity, shown by the half-hearted nature of the operation to regain control of a Republic containing no appreciable Serb

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44 This is a point made strongly by Milivojevic, "The Political Role of the Yugoslav People's Army," 38. Gow, "Legitimacy and the Military," 77-79. See also Remington, "Civil-Military Relations in Post-Tito Yugoslavia."

45 Rusinow, "Yugoslavia: Balkan Break-Up?" 149-152.

46 Gagnon, "Yugoslavia: Prospects for Stability," 26.

47 Ibid.

48 Cohen, *Broken Bonds*, 223-229.

community. This contrasted with JNA involvement to support the Krajina Serbs in Croatia. A unitary state that encompassed all the Serbs definitely would be maintained, even if Yugoslavia could not be.<sup>49</sup> The use of elections and plebiscites by the Serb community in Croatia in the name of national self-determination helped the JNA and Serbia in this. The legitimising cloak of responsiveness to the will of the people was draped over acts driven by anti-liberal and anti-democratic nationalist and particularist priorities. These locally specific factors and appeals were the challenge to the rapidly evolving Western orthodoxy of legitimacy appealed to by the Slovenes in particular.

Serb and Croat diasporas, alarmed by the prospect of repression, driven by historical memories of past atrocities and encouraged by leaders in Zagreb and Belgrade pressed for re-unification with their 'motherlands'. The states-systemic induced requirement for national self-determination to equal statehood and the wider post-Cold War hopes of order through the spread of democracy meant the legitimacy of a re-assertion of the de-colonisation compromise was weak. Without the overwhelming need to preserve peace in a Cold War confrontation, there was no willingness to back the means necessary to achieve simple demands for the maintenance of Yugoslavia as a single, sovereign state.<sup>50</sup>

The idea of a struggle over the basis of the legitimacy of a new political system for Yugoslavia is thus brought out by looking at the events of the 1980s and picking out trends highlighted by the growing importance of liberal political ideas. Trying to

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49 Ibid., 181-236.

50 See below, 5.3



understand the roots of the conflict between the de-centralisers and the centralisers as representing a deeper dispute over the values to underpin a renewed Yugoslavia helps to comprehend the depth and bitterness of the differences. Hopes that the events of the early 1990s were simply the latest crisis in a state dubbed by Stephen Pavlowitch “The Improbable Survivor” can be seen to be overly optimistic, not just with the benefit of hindsight, but with an appreciation of the near total absence of consensus about the basic nature of a reformed Yugoslavia. Therefore, answering the “why now?” question in relation to Yugoslavia’s collapse becomes easier.

This account also provides further evidence for the penetration of the orthodox Western model of legitimacy into the Yugoslav vacuum. This is not just in the genuine desire of many to transform Yugoslavia into a Western-style liberal democracy, but in the way ethno-nationalist leaders felt the need to wrap themselves in the colours of elections as well as the flag of the nation. By appreciating the roots of these desires we can not only better account for the making of such efforts, we can do more than judge the extent to which they fulfilled the procedural and mechanical criteria of, for instance, ‘free and fair’ elections. We can question their legitimacy on the more profound basis of the absence of the liberal political values which give such procedures their meaning.

#### 4.4 Liberal economics

The free movement of goods, people and capital is not a description that can be applied to Yugoslavia in the 1980s.<sup>51</sup> The economic liberal ideal of a free market was attracting growing international support among the leading economies of the world, backed by powerful international institutions such as the World Bank and the International Monetary Fund. The revival of free-market policies and the influence of monetarism was attacking state intervention and guidance of economic matters in favour of opening economies to greater domestic and international competition on the basis of 'market forces'. The willingness to tolerate Yugoslavia's alternative economic system declined under this pressure at a time when it was gravely weakened by the debt induced economic crisis which plagued the country throughout the decade.<sup>52</sup> A population made aware of events and economic standards in other countries through their relative freedom of movement, the large number of Yugoslav workers abroad and the increasingly outward looking attitude of Slovenia and, to a lesser extent, Croatia, ensured the penetration of Yugoslav economic and political circles by the resurgent Western orthodoxy.

The collapse of the Yugoslav economy provides further evidence of the conflict over the legitimisation of Yugoslavia in the 1980s as the Titoist model began to fade. The dispute between what might be called 'westernisers' looking to take a reformed Yugoslavia into the West European mainstream and 'localisers' looking to nationally,

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51 This account of Yugoslavia's growing economic difficulties relies principally on Lydall, *Yugoslavia in Crisis*. See also C. Martin and L. D'Andrea Tyson, "Can Titoism Survive Tito?" in *Yugoslavia in the 1980s*, ed. Ramet. MacFarlane, *Yugoslavia*, 131-147. Pavlowitch, *The Improbable Survivor*, 143-147.

52 Whilst over-stating the case the importance of Yugoslavia's debt is highlighted by Michael Barrat Brown, "The War in Yugoslavia and the Debt Burden," *Capital and Class*, no. 50 (1993).

culturally and historically specific values on which to base a re-centralised regime comes out in their reaction to Yugoslavia's economic problems. The idea of the orthodox Western model of legitimacy penetrating into the emerging Yugoslav vacuum again seems to have use in helping explain the depth of the disagreements between the two camps.

Trade and investment within the country increasingly seized up under the pressure of a collapse in the availability of international credit and the attempts by Republics and Provinces to hang on to any economic activity in their region. The debt crisis meant the end of easy foreign loans and the beginning of a period of deep recession, high inflation, currency devaluations and growing external pressure to restructure the economy and cut government spending. As the responsible institution, most of this pressure fell on the federal government which finally reached agreement on far reaching economic reform in 1982. However, the political system's concentration of power in the hands of Republics and Provinces rendered the Mikulic government unable to implement the plan, a pattern repeated throughout the 1980s, eventually forcing the resignation of the Mikulic government in 1988.<sup>53</sup>

This growing tension between domestic political pressures, especially in the less developed regions, and the IMF as the exemplar of the emerging economic liberal orthodoxy, was highlighted in the different approaches to economics taken by the local parties. Slovenia and Croatia looked to greater free-market reform and liberalisation of the economy as the way out of the mess.<sup>54</sup> The poorer areas generally

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53 Ferdinand, "Yugoslavia - Beyond the Beginning of the End?" 99.

54 Rusinow, "Yugoslavia: Balkan Break-Up?" 152-153.



sought greater protection for domestic markets from international competition and stronger links with the Eastern Bloc, where barter trade was possible and where the Yugoslav economy was still relatively competitive.<sup>55</sup> The inability of the centre to enforce a decision one way or the other drove the different parties to greater extremes.

Declining living standards, rapidly rising prices, disappearing savings and rising unemployment were placing enormous pressure on regional politicians to do something to protect people, especially to protect jobs. By the mid-1980s, two jobs, a plot of land to grow your own food or relatives with jobs abroad providing hard currency were among the only ways of maintaining even basic living standards.<sup>56</sup>

The strength of the Republican and Provincial party machines meant they were able to intervene in the economy to force factories to take on more workers, especially clerical and administrative staff.<sup>57</sup> This further undermined the international competitiveness of Yugoslav industry especially in those more depressed regions where jobs were at a premium and which could least afford to carry the extra workers. The determination to keep factories open at all costs meant many were working at a fraction of their capacity rather than close and rely on supplies from another Republic.<sup>58</sup>

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55 Lydall, *Yugoslavia in Crisis*, 172-185 on the changing balance between East and West in Yugoslavia's foreign trade. Also Haberl, "Yugoslavia and the USSR," 293-298.

56 Lydall, *Yugoslavia in Crisis*, 6-7, 24-35.

57 Ibid., 24-25, 88-89, 118-119.

58 Ibid., 86.

Yugoslav Republics measured their relative positions against one another and did all they could to hang on to what they had got. Thousands of empty railcars, for example, rolled around the rail network as Republics refused to allow them to be used by other Republics.<sup>59</sup> The competition for hard currency was intense as the value of the Dinar plummeted. Those areas with hard currency, such as Croatia through its tourist industry, aimed to keep hold of it, whilst the poor areas called for its expropriation to help revitalise their struggling heavy industry and mining.<sup>60</sup> By the end of the 1980s trade between Republics was being carried out almost exclusively in hard currency. The situation has been described as resembling Germany before the *Zollverein*.<sup>61</sup>

The policies being followed were economic nonsense, from the liberal perspective. This was important because of the leverage over Yugoslavia of its creditors. The policies were justified within the Republics on the basis of mercantilist or economic nationalist grounds of autarky and the vulnerability stemming from reliance on 'foreign' supplies, even when 'foreign' might mean another Yugoslav Republic. The local legitimising factors, particularly prominent in Serbia and Croatia, were at odds with the Western orthodoxy and this undermined the legitimacy of the policies pursued by the Republics in the eyes of their principal Western creditors. This provoked accusations of foreign conspiracies to undermine Yugoslavia and worries that Yugoslavia was losing its sovereignty and being turned into an economic satellite of the West.<sup>62</sup>

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59 Ibid., 110.

60 Ibid., 179-185 for a description of the mechanism for distributing foreign exchange.

61 Ibid., 90.

62 Ibid., 51, n.

The reactions of those who looked to the West and to economic and political reform along liberal lines also shows signs of the power of the Western conception of the economic and states-systems. The 'survival of the fittest' element of liberal economics was pushing those fitter areas in the North towards believing they would be better off without the poor areas. The prosperity of Austria, Italy, Germany and other West European countries contrasted sharply with the poverty of Albania, Bulgaria and Romania. For those who bordered the West, the lure was great and the right economic system was essential if tight links were to be built.

Slovene and Croat cultural heritage, amplified by nationalism, further pushed them to look westwards and the states-system meant secession and independence was the only way forward for the full flowering of their nationhood, which in Croatia especially was seen increasingly in ethnic terms. Without statehood they would be at the mercy of Belgrade and a militant and expansionary ethnic Serb nationalism seeking to establish its presence in the states-system through the dominance of Yugoslavia.

These pressures made economic compromise much more difficult because of the links in Yugoslavia between economic liberalisation, further political decentralisation, Croat and Slovene nationalism and the need for statehood to implement the desired changes. The growing strength of liberal political and economic ideas in the West to which these Republics looked during the 1980s made the mixture in Yugoslavia a poisonous one. The ability of the Yugoslav self-management socialist system to draw legitimacy from the economy collapsed not only because of economic failure, but because of changing international norms defining the boundaries of legitimate economic practice. The system stopped appealing to the people because it stopped



fulfilling their expectations. These were raised by the relative success of West European economies, sparking two different reactions following the political and cultural divide in Yugoslavia. The Northwest looked to join the European mainstream, reflecting its historic cultural links and underlying economic strength. The Southeast regarded integration into the international economy as a surrender of control over national destiny and a betrayal of power to foreigners and therefore looked to locally specific appeals to 'blood and soil' nationalism, sovereignty and communal solidarity to underpin an economic nationalist agenda based on autarky. Achieving this would require control of as many of the economic resources of Yugoslavia as possible adding another motivation to the nationalist desire to unite the Serb people in a single state based on maximal interpretations of what constituted Serb land. International disapproval merely added to a vicious circle of self-reinforcing exclusive paranoid ethnic nationalism.

#### 4.5 Conclusion

Having tried to understand the basis of Yugoslavia's legitimacy in Chapter 3 and now having considered the way in which it was fundamentally challenged during the 1980s it is possible to step back and consider the collapse of Yugoslavia in terms of its loss of legitimacy. This takes into account not just the difficulties faced within the country, but its relationship to a changing world and an evolving model of legitimacy in the West which came to provide a powerful challenge to the efforts of politicians like Milosevic to root a new Yugoslavia in ethno-nationalism.

Of the ten pillars of Yugoslavia's legitimacy, the crisis of the 1980s damaged or destroyed all of them.<sup>63</sup>

1. Tito's death removed the authority of the man and left only the fading glory of the myth as the people lived through the consequences of his rule.
2. The number of people able to remember the struggle for liberation dwindled through natural wastage robbing the country of one of its great unifying stories.
3. Gorbachev and a new period of détente undermined the importance of the breach with the Soviet Union. The disappearance of the threat of a Soviet attack, very real in the 1950s and 1960s, further weakened the power of these arguments as did the growing reliance of Yugoslavia on trade with the Eastern Bloc as its international competitiveness declined.
4. Self-management socialism and de-centralised decision-making lay behind growing political paralysis and the ideals of socialism came under growing attack. Arguments over how to deal with this split the country adding further to the paralysis at the centre and demonstrating the growing importance of liberal economics as a value system to Yugoslavia's creditors.
5. The principles of consensus and the protection of regional interests simply came to equal political grid-lock adding to the determination of the two

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<sup>63</sup> See above, 3.2.

opposed camps to either break-away or to re-impose central control as the only way to achieve action.

6. These same splits and disputes rendered the LCY ineffective in its role as the guide and protector of the revolution and robbed it of any ability to act as an all-Yugoslav force for unity, eventually destroying itself in January 1990.
7. The armed forces became increasingly nationalist, although the upper echelons maintained the appearance of devotion to the all-Yugoslav cause until nearly the end, and backed the Serbs in their pressure for centralised power. This destroyed their impartiality and their all-Yugoslav character in the eyes of the Croats and Slovenes in particular, turning the JNA into a force for disunity.
8. The ideal of Brotherhood and Unity was swept away on the same tide. Exclusive ethno-nationalism established a self-perpetuating spiral of rising fear among the national communities, added to by the ambition of politicians such as Milosevic and Tudjman seeking political dominance.
9. Economic crisis, the failure of the South to catch up with the North and outside pressure for structural adjustment and retrenchment to deal with the debt crisis reinforced the nationalist spiral as beggar-thy-neighbour trade wars and mercantilist policies spread.



10. Finally, the near collapse of the NAM over Afghanistan and the changing international environment undermined non-alignment as a distinctive stance on the world stage.

The crisis of the 1980s was thus fundamentally different from those which had previously beset Yugoslavia. The threat of Soviet invasion or disputes over the level of Republican power were serious, but they did not threaten the basic value systems which legitimised Yugoslavia. The crisis of the 1980s did this, opening Yugoslavia to a debate about the reasons for the country's existence in which positions became polarised and compromise impossible.

This was in part the result of the political system and economic crisis but also contained strong elements of the cosmopolitan/communitarian divide which has been linked to the difficulty of defining legitimacy clearly.<sup>64</sup> The pressure to move towards the orthodox Western model of legitimacy inevitably brought with it the elements of cosmopolitan individualism, ideas of sovereignty resting with the people who limit government, and a civic-territorial approach to national identity. The centralisers wanted to build legitimacy on an exclusive ethno-nationalist agenda, emphasising strong central authority and the state as embodying the people and deserving of their loyalty. Reconciling the two positions would be difficult in any circumstances; in Yugoslavia it was impossible.

In part this dispute was the result of the penetration of Yugoslavia by the orthodox Western model of legitimacy as local legitimation became less effective under the

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<sup>64</sup> See above, 2.3-2.5.

impact of mounting crisis. The developments in the model in the 1980s, especially the growing importance of liberal economic ideas, exacerbated the problem because of the stark contrast this presented to the economic nationalist, autarkic ideals in the ethno-nationalist project.

Therefore, a model of orthodox Western legitimacy resting on the value systems behind institutions and procedures sensitises us to the importance of these value systems in legitimising political and economic systems and even states themselves. It has provided useful clues about where to look for the causes of Yugoslavia's collapse and helped to suggest reasons why it occurred at this time, rather than during one of the country's other crises. It has highlighted the need to look at the links between the domestic and the international, rather than considering them as being separate spheres in which different standards apply and which have little or no influence upon one another. This approach to legitimacy in international relations certainly seems to offer more than the existing institutional and procedural approaches. What Thomas Franck's account could tell us about the legitimacy of Yugoslavia and how it lost it is unclear to say the least.

This, however, is only a first hurdle to be crossed. It could be argued that concentrating on Yugoslavia's rise and fall is not a fair comparison with the existing accounts of legitimacy in international relations. That this may be true is part of the indictment against them. Their overly narrow focus threatens to produce a concept with little relevance to ideas of legitimacy within states, perpetuating the idea of the domestic and the international as distinct spheres, something Walker has shown to

have been damaging to theory building on both sides of the artificial line.<sup>65</sup> Therefore, the next three Chapters will take the Western orthodox model of legitimacy and apply it to the Western reaction to Yugoslavia's crisis and collapse, looking at the territory of international action and international institutions which dominate existing accounts of legitimacy.

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<sup>65</sup> See above, 2.7. Also R. B. J. Walker, *Inside/Outside: International Relations as Political Theory* (Cambridge: Cambridge University Press, 1993).



## Chapter 5

### *Legitimacy and policy in the international response to the collapse of Yugoslavia*

#### 5.1 Introduction

The crisis precipitated by the collapse of Yugoslavia generated enormous international concern and a range of efforts by external actors to manage the situation. These include the European Community (EC), the Conference on Security and Co-operation in Europe (CSCE), the United Nations (UN) and a number of *ad hoc* arrangements such as the Badinter Commission on the recognition of new states and a rolling international conference to mediate the conflict.

The following three chapters are devoted to these efforts to first prevent and then manage the collapse of Yugoslavia. As well as providing an analysis they are also part of the process of testing the Western orthodox model of legitimacy. So far, the focus has been on exploring the roots of the procedural and institutional manifestations of legitimacy which dominate existing accounts. This enriching of legitimacy has proved helpful both in providing an insight into what lies behind the features of legitimacy identified by Franck, Wight and others, and in identifying issues which turn out to be important in the collapse of Yugoslavia.

Chapter 5 tries to use this approach to extend existing accounts of legitimacy to provide judgements which include the normative element based on underpinning

values systems as well as compliance with procedural and institutional standards.

Legitimacy as Beetham's piece of practical political ethics becomes possible when these value systems which underpin procedures and institutions have been laid bare.<sup>1</sup>

Section 5.2 therefore attempts to extrapolate directly from the orthodox Western model to suggest criteria against which it will be possible to judge Western policy toward Yugoslavia. This is not just a matter of whether the states and institutions involved followed existing custom and practice but is about using the value systems which underpin these manifestations to suggest what will be and what will not be legitimate in relation to handling a series of events like the collapse of Yugoslavia.

The detailed analysis of events comes in chapter 6, but before that section 5.3 places Yugoslavia in the context of international politics in the early 1990s. This sets out the wider political constraints and limitations placed on Western states and institutions in their response to Yugoslavia's collapse. Issues such as the EC's debate over the Common Foreign and Security Policy in the run up to the Maastricht Summit in December 1992, concerns over the future of the Soviet Union and the level of US involvement in the new European security 'architecture' are discussed.

Therefore chapter 5 sets the scene in terms of policy criteria and the wider political context, for the detailed look at efforts to manage the collapse of Yugoslavia.

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<sup>1</sup> See above, 1.1.

## 5.2 A hypothesis of legitimacy

The proposition of this section is that for the Western led response to the collapse of Yugoslavia to be judged legitimate it must pass certain tests. These are based on the interaction of the states-systemic, political liberal and economic liberal spheres.

As argued above, legitimacy is socially constructed.<sup>2</sup> The relative importance of these three value systems varies over time, so the level of compliance with the different reference points is important. There is an element of pragmatism involved in legitimacy as a piece of practical political ethics and as the result of a Realist states-system urging pragmatism as a necessary part of existing in a difficult environment.

Judging is therefore difficult. Looking at both the choices made and the way in which those choices were constrained by both circumstances and the limits of the framework of legitimacy means assessment must be a sympathetic consideration of the specific situation. Considering the goals aimed at, as well as the means used to achieve them, and placing these in their context produces a meaningful effort at assessment.<sup>3</sup> This is something the value-free approach of Franck, for example, finds difficult. Deviation from time-honoured, legally institutionalised procedures which nevertheless are seen to be appropriate to the circumstances, or to achieve goals deemed legitimate, have to be sidelined as exceptions to the rules, or fulfilling the spirit, if not the letter, of the law. Making legitimacy a value judgement which needs to take into account both the

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<sup>2</sup> See above, 2.7.

<sup>3</sup> See below, chapter 7.



choices made and the conditions under which they were made, putting procedures in their proper place as guides rather than commands, brings these ‘exceptions’ back within a framework of analysis of legitimacy. This is particularly important when dealing with circumstances as unusual, extreme and difficult as those brought about by the collapse of Yugoslavia.

Because the Yugoslav crisis is about both political action and the existence of states it seems sensible to establish pairs of criteria within each of the reference points, one dealing with action, the other dealing with statehood. This is not intended to try to divide the concept of legitimacy and the connectedness of the pairs should show this. Instead, it is intended to add to the clarity of the hypotheses.

As well as fluctuations in the relative importance of the three value systems and the risks of cynical abuse, the cosmopolitan/communitarian divide establishes a ‘grey area’ at the heart of the concept of legitimacy, and another general caveat.<sup>4</sup> Chapter 4 showed how communitarian, ethno-nationalist ideas were central to Serb-led efforts to re-legitimise Yugoslavia on the basis of appeals to locally specific values drawn from Serb history and culture. At the same time, Slovenia in particular was drawn toward the cosmopolitan, liberal notions of the Western orthodoxy. Whilst Yugoslavia provides extreme examples of this split, it also effects the legitimacy of efforts to manage the crisis, as the criteria below show. Judgement in relation to specific events is therefore essential and legitimacy cannot be a straitjacket. The role of legitimising actor is therefore not for the analyst alone, who should not cut themselves off from those making the decisions. It is an interactive process, part of the

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<sup>4</sup> See above, 2.3-2.7.

social construction of legitimacy, in which those commenting on and analysing decisions are part of the process of developing, refining and changing the framework within which policy choices are made.

### 5.2.1 The states-system

#### *Action*

Chapter 2's effort to build a model of Western orthodox legitimacy stressed the legitimising power of the states-system as resting on the value of order. The protection and promotion of the rules, norms and principles of international society is designed to achieve the goal of order. Sovereignty, non-intervention, territorial integrity and the non-use of force except in self defence, familiar building blocks of the states-system, are there to help promote order and peaceful coexistence.

International action should respect the sovereignty of states and the resulting rights and duties. In relation to Yugoslavia, this places the Federal government and Presidency in a central position. They are the embodiment of Yugoslavia on the international stage with principal responsibility for negotiating with other states. They are the only all-Yugoslav governing institutions and should therefore be in a position to make agreements and take initiatives on the part of all the constituent Republics. In line with the principle of non-intervention, the international actors should accept it is up to the Federal government to carry out agreements it enters into and fulfil commitments it makes.

These two points show up the strong presumption in favour of the existing authority in the principles of the states-system.<sup>5</sup> Dealing directly with secessionists, or even recognising they have the right to be represented in negotiations, can be portrayed as breaching the principle of non-intervention because it constitutes uninvited interference that threatens the political independence of the sovereign state. The presence of non-Federal governing institutions in negotiations over Yugoslavia should only happen with the agreement of the Federal government. External actors can press for their involvement, but such pressure is unlikely to be welcome.

This presumption in favour of the *status quo* is underlined by territorial integrity,<sup>6</sup> the states-system's property rights.<sup>7</sup> Action contributing to the non-consensual change of borders is illegitimate from the perspective of the states-system. Dealing with or otherwise encouraging those seeking to change international borders without consent is to be frowned upon. This clearly makes the acquisition of some form of consent an imperative for those seeking to change borders, whether by secession or irredentism, and especially to demonstrate the support of the population they are attempting to take out of an existing state, whether to independence or to join another state.<sup>8</sup>

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5 Rosalyn Higgins, "Intervention and International Law," in *Intervention in World Politics*, ed. Hedley Bull, (Oxford: Clarendon, 1984), 42-43.

6 Alexis Heraclides, "Secessionist Minorities and External Involvement," *International Organization* 44 (1990): 342.

7 Hedley Bull, *The Anarchical Society: a Study of Order in World Politics*, (London: Macmillan, 1977), 4-5.

8 The need for consent in the changing of borders is enshrined in the Helsinki Final Act of the Conference of Security and Co-operation in Europe, 1975. It was stressed in relation to Yugoslavia at the CSCE meeting in Berlin in June 1991. Jonathan Eyal, *Europe and Yugoslavia: Lessons From a Failure* (London: Royal United Services Institute Whitehall Paper No. 19), 15.



The principle of the non-use, or threat of the use, of force except in self-defence is recent, elevated by the UN Charter to a central principle of the conduct of international relations.<sup>9</sup> In effect, force has come to be defined as armed violence and the principle should rule out external actors seeking to impose a solution by military means on conflicting parties, except under conditions of collective self-defence in support of a state invaded by another. They can be pleaded with or cajoled, but not militarily coerced into a settlement. Diplomacy and political or economic carrots and sticks are the tools available. This is even more the case in disputes going on within states where the protections of non-intervention and territorial integrity grant even greater weight to the presumption against the use, or threat of use, of military force by external actors.

According to the principles of the states-system, then, action will be legitimate if it protects the sovereignty and territorial integrity of existing states, respects their right to non-intervention and is conducted via diplomacy and negotiation excluding the use, or threat of use, of military force except where it is explicitly sanctioned by the UN Security Council acting in its role as guardian of international peace and security. This reflects the existing accounts of legitimacy such as Caron and Murphy, both of whom make reference to Yugoslavia.<sup>10</sup> However, the boundaries cannot be drawn too tightly for, as Marc Weller argues, the response to the collapse of Yugoslavia pushed international law in new directions as the EC and others struggled to cope with the

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9 R. J. Vincent, *Non-Intervention and International Order* (Princeton, N. J.: Princeton University Press, 1977), 298.

10 David D. Caron, "The Legitimacy of the Collective Authority of the Security Council," *American Journal of International Law* 87 (1993). Sean D. Murphy, "The Security Council, Legitimacy and the Concept of Collective Security After the Cold War," *Columbia Journal of Transnational Law* 32 (1994).

country's turmoil.<sup>11</sup> However, using a value based approach to legitimacy we can pinpoint the source of these ambiguities and the stretching of accepted custom and practice as part of the need to pursue order. We can make a sympathetic judgement of the legitimacy of action that includes not just an assessment of whether actions satisfy formal standards, but also the goals they aim to achieve and the circumstances in which policy choices are made.

### *States*

The legitimacy of states is largely determined by the other members of the system. As Martin Wight described it, the states-system in this respect is rather like a club where the existing members have to approve any applications to join.<sup>12</sup> Therefore, a brief outline of recognition points to most of the tasks which aspiring states have to perform if they are to achieve membership of the states-system.

Some aspects of the process are within the control of aspiring states and here is where the border between the states-system and liberal political ideas in the Western orthodox model begins to blur. For the vast majority of new states this century recognition has been via de-colonisation which, as Wight argues, has been linked to the popular principle and national self-determination.<sup>13</sup> Statehood encompasses a just aspiration on the part of the people who populate it to self-determination and freedom

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11 Marc Weller, "The International Response to the Dissolution of the Socialist Federal Republic of Yugoslavia," *American Journal of International Law* 86 (1992).

12 Martin Wight, *Systems of States* (Leicester: Leicester University Press, 1977), 153.

13 Ibid., 160-72.

from alien rule.<sup>14</sup> Therefore, the internal character of the state, even within the principles of the states-system, does have some relevance to the decision to admit the state to the system by recognising its sovereignty.

Sovereignty has become connected to the people, recognising the historical move away from notions of divine right to notions of popular sovereignty.<sup>15</sup> The chances of recognition are likely to be higher if the desire for statehood is clearly supported by the population of the putative state.

To be legitimate according to the principles of the states-system a new state needs to be recognised. This requires the consent of the existing states who do the recognising and thus the new state needs to be able to demonstrate the characteristics that the existing states demonstrated when they were recognised.<sup>16</sup> The four criteria of the “Montevideo Convention” on borders, population, government and diplomatic capability are necessary but not sufficient.<sup>17</sup> The new state needs to be able to appeal to a ‘just cause’, such as de-colonisation. Its government needs to have demonstrated it is the sole effective ruler of the territory and be able to establish its representative credentials in relation to the population as the ultimate source of sovereignty. The

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14 For the evolution of the doctrine of self-determination see Robert H. Jackson, *Quasi-States: Sovereignty, International Relations and the Third World* (Cambridge: Cambridge University Press, 1990), especially 151-159. Also Yonah Alexander and Robert A. Friedlander, eds., *Self-Determination: National, Regional and Global Dimensions* (Boulder, Colorado: Westview Press, 1980). Hurst Hannum, *Autonomy, Sovereignty and Self-Determination: the Accommodation of Conflicting Rights* (Pennsylvania: Pennsylvania University Press, 1990), 3-122.

15 Wight, *Systems of States*, 160-165.

16 Ibid., 153.

17 Convention on the Rights and Duties of States, signed at Montevideo, Uruguay, 26th December 1933. Quoted in Hannum *Autonomy, Sovereignty and Self-Determination*, 16.



claims of the previous rulers need to have been thoroughly refuted and this is likely to have been demonstrated in direct confrontation.

### 5.2.2 Liberal political ideas

#### *Action*

Western-led international action to deal with the collapse of Yugoslavia is likely to have a greater chance of being judged legitimate (or of increasing the level of legitimacy if it clears the hurdles of one of the other reference points) if it protects and promotes the political values, institutions and procedures of liberalism. It should be premised on individualism and liberty, it should increase respect for principles of constitutionally limited government under the law and accountable to the people as ways of implementing a modern Lockean social contract.<sup>18</sup> Action which perpetuates dictatorships or authoritarian government is likely to have its legitimacy questioned and to require particularly detailed justification on the basis of unusual circumstances by those taking such a decision. The questioning by those outside the sphere of decision-making impacts on those within and on expectations on both sides of the fence about future actions and how they can be legitimised.

This statement points to the increased importance of liberal political principles in the orthodox Western model of legitimacy. The growing body of international law dealing with human rights and other broadly humanitarian issues, especially within conflict situations, and the increasing acceptance of the individual, as well as the

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<sup>18</sup> See above, 2.3-2.5.

state, as a subject of international law are institutional manifestations of this tendency.<sup>19</sup> Some are now suggesting there is emerging a legal right to democratic government.<sup>20</sup> In Europe, one of the heartlands of the Western tradition, the Paris Charter and the Copenhagen Declaration have been interpreted as commitments to and acceptance of intervention in order to defend democracy.<sup>21</sup>

This clashes with states-systemic doctrines of non-intervention. Action promoting constitutionally limited government, under the law and accountable to the people, will suffer challenges to its legitimacy if it breaches doctrines of sovereignty, territorial integrity and non-intervention. However, the supposed indifference of international politics to domestic politics has obviously been breached when judging legitimacy against the value systems making up the orthodox Western model. This points toward the changing basis of order and a growing willingness to accept a link between the domestic character of states and their likely behaviour in upholding the rules and principles of international society and contributing to the furtherance of its norms.

Also important to judging the legitimacy of action against liberal criteria is for action to be collective.<sup>22</sup> This echoes Murphy's arguments about collectivity being important

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19 See Theodor Meron, "War Crimes in Yugoslavia and the Development of International Law," *American Journal of International Law* 88 (1994): 79 for the core treaties of international Humanitarian law. Thomas M. Franck, "The Emerging Right to Democratic Governance," *The American Journal of International Law* 86 (1992): 50, 62-64. He believes that individuals will increasingly look towards international law and international organisations to protect their democratic rights.

20 Franck, "The Emerging Right." Also Malvina Halberstam, "The Copenhagen Document: Intervention in Support of Democracy," *Harvard International Law Journal* 34 (1993).

21 Franck, "The Emerging Right," 67-68. Halberstam, "The Copenhagen Document."

22 The importance of the UN's, or another collective institution's, approval to successful action is stressed in Robert Cooper and Mats Berdal, "Outside Intervention in Ethnic Conflict," *Survival* 35 (1993): 136-137. Marrack Goulding, "The Evolution of United Nations Peacekeeping," *International Affairs* 69 (1993): 453-455 where the idea of collectivity runs through his account of the five main areas of customary and case law on peacekeeping.

because of the partially justified concerns about the legitimacy of the Security Council as representative of the “global community”.<sup>23</sup> Chapter 2 linked these concerns about representation to the Western tradition of liberal political ideas and it can be seen as a way for Western states to link international action back to the domestic legitimacy of elected, representative government.<sup>24</sup> There should be a need for them to legitimise action toward Yugoslavia by promoting liberal democratic forms of government. This can be partially reconciled with the states-system’s prior need of order by linking the nature of government with international orderliness, through such notions as liberal democracies not fighting one another.

### *States*

The legitimacy of states as judged against the liberal vision of the state will focus on their domestic character, both in terms of the political system they adopt and the nature of the population as a self-determining unit. The problems of liberal political ideas about self-determination, its difficulties with nationalism and the way in which it has been interpreted in the states-system are crucial to this issue.<sup>25</sup>

The principles of sovereignty and non-intervention make it extremely difficult to legitimately prescribe the form of government a state must adopt. Even harder to arrange is the sort of individualist ethos necessary to establishing a successful liberal culture able to support the institutions of liberal democratic government. The ideal

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23 Murphy, “The Security Council, Legitimacy and the Concept of Collective Security After the Cold War,” 208-222.

24 See above, 2.4.

25 See above, 2.4 - 2.5.



civic-territorial form of national identity cannot be simply installed.<sup>26</sup> The transformation of national self-determination into a conservative principle and part of the states-systemic structure of order shows some of the acute difficulties of trying to globalise political principles resting on a value system with a limited geographical base and a limited degree of consensus.<sup>27</sup>

Therefore, the legitimacy of Western-led action toward Yugoslavia in relation to the liberal vision of politics and the state is circumscribed by the states-systemic need of order. However, this does not make liberal political principles irrelevant. Efforts to reform Yugoslavia and debates about recognising successor states can be expected to aim at instilling a democratic culture and the institutions and procedures of liberal democracy.

### 5.2.3 Liberal economics

#### *Action*

Judging the legitimacy of Western action in Yugoslavia against the third reference point of a liberally conceived economy requires a focus on the extent to which action conforms with or promotes ideals such as free movement of goods, capital and labour both within and between states. The political liberal values of individualism and liberty are also present in economic liberalism. The Western world, where the ideas of market economics are an orthodoxy, needs to be seen to be supporting these

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<sup>26</sup> See above, 2.5.

<sup>27</sup> e.g. Jackson, *Quasi-states*. Hannum, *Autonomy, Sovereignty and Self-Determination*.

tenets both through its actions and its expectations of those seeking membership. Once again, the goals and policies of actors interact with the circumstances of the time and the comments and observation of analysts contribute to the continuing construction of a standard of legitimacy.

As discussed earlier, the international economy and its standard of legitimacy has a somewhat 'semi-detached' relationship in the orthodox Western model of legitimacy.<sup>28</sup> In relation to the primarily political crisis of Yugoslavia this can be expected to be emphasised. This does not necessarily mean it is unimportant, but is a reflection of the realities of the situation being dealt with. The expectations and normative climate around economic policy nevertheless have an important role to play. This is not simply a rhetorical commitment to promoting international free trade and open markets but instead it pervades attitudes toward international political problems as well as economic debates.

Action is more likely to be judged legitimate, or to have its legitimacy enhanced, if it reflects concerns with opening markets and, perhaps ironically, 'de-politicising' economies. The feeling that politics ought to be kept out of economics is one of the underlying reasons why economic and political legitimacy have a 'semi-detached' relationship. This is both a reflection of a perceived ideal among states regarding themselves as economic liberal, a reflection of the minimal role ascribed to the state by such intellectual fathers of the tradition as Adam Smith<sup>29</sup> and a reaction, ironically

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28 See above, 2.6

29 Eric Roll, *A History of Economic Thought*, rev. 5th ed. (London: Faber and Faber, 1992), 129-130.

a political one, to the high level of politicisation of economies in the Communist bloc.<sup>30</sup>

Legitimate action will aim to promote free-trade and market economics. Economic integration, both within the disintegrating Federation and between Yugoslavia and the rest of the world should be a goal of external efforts to manage the crisis in the hope that the expected benefits of such policies will create reasons to back away from the nationalist abyss. Appeals to be rational, the basis of liberal economic theory, and to stay together as the only way to achieve prosperity and greater wealth, the touchstone of success in a liberal economy, should be made. When the disintegration of Yugoslavia became unstoppable and irreversible, then international action can be expected to press for the successor states to adopt free-market policies, to pursue industrialisation and to aim to integrate themselves into the world economy.

### *States*

A liberal economy is usually portrayed as keeping the state out as much as possible. However, the state *is* given a role within this approach. It is the impartial arbiter of the rules of free competition, stepping in to prevent the creation of monopolies, cartels and other anti-competitive practices that capitalists would like to get away with in the name of short-term profit increases. It is also the provider of communal goods and services that cannot be provided in a profitable manner. The state has a role

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30 This point is made with reference to Yugoslavia by Harold Lydall, *Yugoslavia in Crisis* (Oxford: Clarendon Press, 1989), 141, where he strongly echoes Adam Smith on restraining the role of government and 242 on the need to separate politics from economic and business decisions and to "put politics in its proper place as a minor adjunct of the life of the community .... It is no accident that a market system has always been the precondition for political democracy." Lydall denies that Yugoslavia's self-management system constituted a market economy in any meaningful sense.



to play in education and in infrastructure. Finally, the state provides security from outside attack by those illiberal states that seek wealth by plunder and conquest rather than through the more effective means of trade.<sup>31</sup> There is, therefore, a recognition of the importance of the states-system built into liberal economic ideas.<sup>32</sup>

These three functions of the state and the attitude towards economic policy they embody provide a set of criteria influential in Western policy towards, and potential recognition of, new states. They are particularly important in the case of Yugoslavia because their attainment would be a sign of the completion of the transformation from Communism to free-market, liberal economics.

Creating these sort of criteria show the ability of a model of legitimacy premised on value systems to go beyond the existing accounts which concentrate on institutions and procedures. These are able to provide a judgement as to whether or not existing custom and practice has been followed and fulfilled, and therefore that something is legitimate. However, this use of legitimacy is sterile and free of the value content which should go with the label and thus the prescriptive weight these criteria are able to carry. Rather than being linked to procedures such as getting resolutions through the Security Council, they are able to point to the goals which lie behind such procedures and thus introduce the room for pragmatism and innovation which is absent in the existing accounts.

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31 These three functions were identified by Adam Smith and remain the corner stone of the liberal view of the role of the state, with the possible addition of monetary policy to manage the exchange rate. Roll, *A History of Economic Thought*, 130.

32 This has been argued strongly by Andrew Wyatt-Walter, "Adam Smith and the Liberal Tradition in International Relations," *Review of International Studies* 22 (1996).

Pragmatism and innovation were high on the international agenda in the early 1990s as Yugoslavia collapsed because of the general transformation in international and especially European politics. Events in Yugoslavia could not be divorced from this wider context and the issues identified in these criteria of legitimacy had important implications for other events and *vice versa*. Therefore, the next section will consider this context to point to some of the constraints on Western efforts to legitimise policy toward Yugoslavia.

The sympathetic assessment of actions and events is a necessary part of the process of coming to conclusions based on the fulfilment of these richer criteria. It would be unreasonable to declare actions or states illegitimate without taking into account the context, without the judgement being a *practical* piece of political ethics and thus allowing for the pragmatism in the Western model of legitimacy and the difficulty of reconciling all three of its principal reference points all of the time.<sup>33</sup>

### 5.3 Context and contradictions for the “international community”

#### 5.3.1 The international environment

**T**he crisis in Yugoslavia came at both a good and a bad time. January 1990, when the LCY imploded, was a time of enormous optimism about the future of European politics, and international politics as a whole, following the collapse of Communism in Eastern Europe. Stabilising the region’s countries and helping them make the transition to democratic political systems and market economies was a

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<sup>33</sup> This harks back to Beetham. See above, 1.1.

universal goal among the Western powers, offering the hope that Yugoslavia could expect sympathy and support for Prime Minister Ante Markovic's economic reform plans and the introduction of a multi-party system via the now inevitable elections in the Republics. The political momentum in the West was to get involved.

As the world became aware of the serious possibility of secession following the Slovene referendum on independence in December 1990 the Gulf War was about to start. The hopes for the creation of a 'New World Order' were high. The United Nations was being rehabilitated and set up to take the leading role in international peace and security envisaged by its founders. The collapse of Communism had lifted the suffocating blanket of the Cold War and introduced fresh hope of international co-operation and action, with the Gulf as the first example of what could be achieved.

More locally, the European Community was driving forward on the crest of the Single Market wave in possibly its most dynamic period since its creation.<sup>34</sup> The Single European Act not only created the '1992 Project' for the removal of internal barriers to trade, but also new political structures and practices to increase the integration of member states.<sup>35</sup> At the start of 1991 eyes were beginning to look to the Maastricht conference, due at the end of the year to revise the Treaty of Rome and set the Community on the path to a single currency, a single central bank, greater defence co-operation and a common foreign and security policy. The EC was trying to promote a new kind of politics for a new Europe with the EC as a new kind of foreign policy

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34 Stephen George, *Politics and Policy in the European Community*, 2nd ed. (Oxford: Oxford University Press, 1991), v.

35 Ibid., v-vi. George describes the 1992 project as "irreversible".



actor, based on a co-operative and consensual process among states building order and peace on the basis of economic prosperity and political stability and democracy.

On the other side of the scales, the picture was less bright. The state of flux created by the end of the Cold War meant uncertainty about the division of labour between a whole range of institutions such as the UN, the Conference on Security and Co-operation in Europe, NATO, the Western European Union, the EC and so on.<sup>36</sup> This threatened to result in paralysis and confusion in the event of a serious crisis.

The Soviet Union was undergoing a series of political and economic crises threatening to unleash a wave of instability that would spread far and wide. The leadership of President Mikhail Gorbachev, widely admired in the West and regarded as important to consolidating gains made in arms control and reform of the Soviet Union, was under growing challenge and he needed support. During 1990 the Baltic states began attempting to secede, setting a powerful precedent for other Republics in the Soviet Union. In August 1991 Gorbachev was temporarily overthrown in a military coup and, although restored to power, his authority was shattered and the Soviet Union was dissolved over the following five months. Fear of the uncertainty created by Soviet turmoil meant preservation of the status quo was high on the list of Western priorities, creating a climate unsympathetic to secessionists elsewhere.

Further questions about the basis for the creation, or re-creation, of European states

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36 The literature on 'the European security architecture debate' is enormous. A taste can be gained from Barry Buzan, et al., *The European Security Order Re-Cast: Scenarios for the Post-Cold War Era* (London: Pinter, 1990). Jonathan Story, *The New Europe: Politics, Government and Economy Since 1945* (Oxford: Blackwell, 1993) especially chapters by Mastny, Nau and Story. Jamie P. Shea, "Security: the Future" and Trevor C. Salmon "The Union, The CFSP and the European Security Debate" both in *The European Community and the Challenge of the Future*, 2nd. ed., ed. Juliet Lodge, (London: Pinter, 1993.) Ole Wæver et al., *Identity, Migration and the New Security Agenda in Europe* (London: Pinter, 1993) sets out to put a different slant on the debate. Otherwise, a survey of journals such as *Survival*, *International Affairs*, *International Security*, *Foreign Affairs* and the *Adelphi Papers* should reveal much of the literature on this issue.

were raised by the debate surrounding the unification of the two Germanys and how the Soviet Union could be persuaded to accept it.

In general, Eastern Europe was also facing the economic realities of the aftermath of Communism and the need to compete in an international economy mired in recession and clouded by the stalled GATT talks, the threat of trade wars and possibly a new wave of protectionism.<sup>37</sup>

Iraq's invasion of Kuwait in August 1990 further distracted attention, leaping to the top of the international agenda and dominating the available resources of international political will. Whilst it raised expectations about the effectiveness of renewed international solidarity in the face of aggression, holding together the delicate coalition of Western and Arab countries, and persuading Israel to keep a low profile, was at the top of the US agenda until after the war was successfully concluded in March 1991. This was followed by the Kurdish refugee crisis and concern at maintaining the territorial integrity of Iraq, adding to the pressure already existing, because of the situation in the Soviet Union, to resist dangerous secessionist precedents.

Nevertheless, hopes were high that something could, and should, be done to help the Yugoslavs, but the allocation of responsibilities was less certain.<sup>38</sup> Also, Yugoslavia

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37 As well as the above literature on the European security architecture debate, where many of these issues are dealt with as part of the new security agenda, see also Jackie Gower, "EC Relations with Central and Eastern Europe," in *The European Community and the Challenge of the Future*, ed. Lodge.

38 Accounts of external involvement in Yugoslavia include: James Gow and Lawrence Freedman, "Intervention in a Fragmenting State: the Case of Yugoslavia," in *To Loose the Bands of Wickedness: Intervention in Defence of Human Rights*, ed. Nigel S. Rodley (London: Brassey's, 1992); Misha Glenny, *The Fall of Yugoslavia: the Third Balkan War* (London: Penguin, 1992); Weller, "The International Response to the Dissolution of the Socialist Federal Republic of Yugoslavia,"; David Buchan, *Europe: the Strange Superpower* (Aldershot, Hampshire: Dartmouth, 1993), 67-81; Trevor C. Salmon, "Testing



was to highlight a number of crucial dilemmas in international relations for the West in particular and especially the ability of external actors to manage intra-state problems. The traditional answers to these questions were themselves being questioned in the West, as they continue to be, in the light of hopes for a 'kinder, gentler' world in which action could be taken to relieve human misery and in which doctrines of sovereignty and non-intervention were under renewed assault by pressure for the protection of human rights, the promotion of democracy, the right of self-determination, and the establishment of market economies holding out the prospect of prosperity.<sup>39</sup>

The balance of elements in the orthodox Western model of legitimacy had shifted. Liberal political and economic values had taken on a new power. Yugoslavia would be judged against these values in ways action during the Cold War had not. Then the dominance of order, security, stability and power in the face of geopolitical confrontation meant 'hard nosed' calculations about what was necessary to prevent the other side achieving a significant shift in the balance of power were acceptable.<sup>40</sup> The, 'He may be a son-of-a-bitch, but he's our son-of-a-bitch,' justification for the preservation of authoritarian and dictatorial regimes would no longer wash. Stability and predictability remained desirable and important to legitimacy, but the old price

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Times for European Political Co-Operation: the Gulf and Yugoslavia," *International Affairs* 68 (1992); Eyal, *Europe and Yugoslavia*.

39 Nigel S. Rodley, "Collective Intervention to Protect Human Rights and Civilian Populations," in *To Loose the Bands of Wickedness*, ed. Rodley. These principles were to be identified as the goals of the European Union's Common Foreign and Security Policy in the Treaty of European Union negotiated at Maastricht in December 1992 in Title V Article J1(2). See Juliet Lodge, "From Civilian Power to Speaking with a Common Voice: the Transition to a CFSP," in *The European Community and the Challenge of the Future*, ed. Lodge. Gower, "EC Relations with Central and Eastern Europe," 286-287.

40 This comes through strongly in the discussion of new security agendas contained in most of the literature on post-Cold War European security already identified. For a comprehensive analysis of the broadening of the security debate to include issues that I have classified under the headings political and economic liberalism see Barry Buzan, *People, States and Fear: an Agenda for International Security Studies in the Post-Cold War Era* (Hemel Hempstead: Harvester Wheatsheaf, 1991).



was perceived as too high and it would in future have to rest on the consent of the governed, on making the idea of popular sovereignty meaningful.<sup>41</sup> This was especially powerful in Europe. The signing of the Paris Charter in November 1990 exemplified the optimistic mood, formally declaring the end of the Cold War and promising a new future for international relations in Europe.<sup>42</sup>

The concept of security sprouted new shoots. Narrow definitions based on classic states-systemic principles of territorial integrity and political independence, and stressing the mechanisms of balance-of-power, military might and alliance, gave way to wider definitions. These added economic growth, democracy, identity and human rights, to be achieved ‘inclusively’ - reducing threat by making others feel more ‘secure’ in this broader sense - rather than ‘exclusive’ means of building walls to keep them out.

Yugoslavia threw up problems on almost all these fronts for Western states and institutions looking to help. Should the country be held together, maintaining its territorial integrity and the sanctity of its borders in the interests of stability? Should the clearly demonstrated wishes of the majority of the populations of Slovenia and Croatia to leave Yugoslavia be accepted and the country helped to dissolve itself? If so, what should be done about its borders? Could internal, Federal boundaries be carried over or should they be re-negotiated? If secession was to be sanctioned on the basis of self-determination via the ballot box, how far should this right be allowed to extend? Should national groups within the Republics also be allowed to secede from

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41 Shea, “Security: the Future,” 364.

42 Jan Zielonka, “The Helsinki Process and a New Framework of European Security,” in *The New Europe*, ed. Story, 439-440.

the seceding Republic if they wanted to? Could external actors deal directly with Republican and sub-Republican authorities or must they deal solely with the Federal government in order to avoid accusations of interference? Should Yugoslavia be bailed out of its economic mess in the hope of keeping the country together or should aid be made conditional on economic reform that might exacerbate social and economic dislocation? Should economic viability determine whether or not a Republic's, or other region's, secession should be accepted? Do external actors have the right to make such decisions on behalf of the 'Yugoslavs'? If it comes to fighting, can other states intervene, and on what basis, and if so should they back Federal forces or secessionists? What influence should the domestic political and economic practices of the competing sides have on the action of external actors? Is there a moral duty to back democracy and oppose those abusing human rights?

All of these questions, and more, generated competing demands for those attempting to manage the situation from outside. The shift in the Western climate of legitimacy created by the end of the Cold War exacerbated the situation. The greater prominence of liberal values meant many of the states-systemic answers were of limited use as a guide. The states-system's emphasis on order continued to be important and could also be expected to act as a 'safety net', a fall-back position which could be taken should plans with a wider basis of legitimacy fail to provide acceptable answers to this long list of questions. There was also the concern for the effect that any precedent might have on other states with troublesome minority groups, not only the Soviet Union but also the UK, France, Spain and even Italy where the Lombard League was making great political progress.<sup>43</sup>

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43 Gow and Freedman, "Intervention in a Fragmenting State," 98.

Yugoslavia could not be treated in isolation, the case judged simply on its own merits. The evolutionary normative framework of Western legitimacy and the value systems embedded in it meant the power of a precedent would be carried into other areas of the world. As an example, if Yugoslavia was deliberately dismantled because the constituent peoples did not want to live together any more, that could not be isolated from the situation in the Soviet Union, Canada, Turkey, or any other state with more than one national group within its borders. Past action and future consequences had to be considered. The arena for innovation was necessarily limited.

### 5.3.2 The European Community and the legitimacy of answers

The search for answers to these questions was led by the European Community.<sup>44</sup> The reasons for this are themselves indicative of the context within which the Yugoslav crisis has to be placed. The EC was not motivated simply by altruism or fear of the consequences of a war on its border. Many issues on the European agenda were to become entangled with the development of policy towards Yugoslavia: the future of the EC's foreign policy role; the relationship between major EC powers, especially France and Germany; the relationship between the EC, NATO and the WEU.<sup>45</sup>

The EC was entering uncharted waters in its efforts to lead international efforts to manage the crisis in Yugoslavia. Its previous diplomatic role focused on trade

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44 The EC reacted to the Slovene and Croat declarations of independence on 25th June immediately, dispatching its "troika" of foreign ministers. Weller, "The International Response to the Dissolution of the SFRY," 571.

45 Gow and Freedman, "Intervention in Fragmenting State," 100-102.



relations.<sup>46</sup> Its role in more 'classical' foreign policy issues had been limited to co-ordination and prior discussion of positions in the European Political Co-operation (EPC) process.<sup>47</sup> This had been extended and given an institutional form in the 1986 Single European Act but could still not be characterised as more than a consensual co-ordinating grouping.<sup>48</sup> The future of EPC and an EC foreign policy role was an area of intense debate. Some, such as France, saw it as the way forward in order to build a distinctly European voice in the world and to establish stronger foundations for an enhanced 'European pillar' in the Atlantic relationship.<sup>49</sup> With the end of the Cold War came the end of the principal reason for US involvement in European security affairs meaning US leadership was likely to be less decisive and the US government was seeking to reduce its role.<sup>50</sup> Proponents of an EC CFSP saw this as a gap which the EC should fill. Proposals were floated for the revival of the WEU as the defence arm of the EC and the bridge between the EC's new security role and NATO.<sup>51</sup>

The EC was also taking the leading role in economic assistance to Eastern Europe and was the focus of attention of those states.<sup>52</sup> The attitude of the EC could prove crucial to their future economic prospects. Aid packages, market access negotiations and

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46 Art. 228 of the Treaty of Rome gave the Commission responsibility for external economic relations. Clive Archer and Fiona Butler, *The European Community: Structure and Process* (London: Pinter, 1993), 28. Also Lodge, "From Civilian Power to Speaking with a Common Voice," 228-231 on efforts to maintain a division between trade relations and security and defence issues.

47 For a brief history of the development of EPC see Archer and Butler, *The European Community*, 169-180.

48 Ibid., 173.

49 Eyal, *Europe and Yugoslavia*, 32-33.

50 Salmon, "The Union, the CFSP and the European Security Debate," 262-264 for some of the implications and problems created by the changing US-European relationship.

51 Lodge, "From Civilian Power to Speaking with a Common Voice," 234-237, 249.

52 Gower, "EC Relations with Central and Eastern Europe."

trade links with the EC were the best hope open to East European states seeking to rebuild and modernise their economies. Initiatives such as the PHARE programme, the European Bank for Reconstruction and Development and Association Agreements came thick and fast.<sup>53</sup> The EC was establishing itself as the leading institution in post-communist Eastern Europe. Under the expanded rubric of security it was already fulfilling a security role and this fuelled momentum for it to take a larger role. With its lack of military capabilities, the Community inevitably emphasised the 'new' aspects of security and also its perceived mission to extend democracy, market economics and co-operation as far to the east as possible and especially to the tottering Soviet Union to meet the unexplored dangers of the collapse of a nuclear Superpower.<sup>54</sup>

The Community was founded on broadly liberal economic principles, its members among the leading exemplars of liberal democracy.<sup>55</sup> The evolution of EPC had taken issues of human rights, democracy and fundamental freedoms to the heart of its developing common foreign policy<sup>56</sup> and the Maastricht Treaty was to make these the objectives of a Common Foreign and Security Policy.<sup>57</sup> Political and economic liberal principles were closer to the heart of foreign policy than ever before.

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53 Ibid.

54 Ibid.

55 George, *Politics and Policy in the European Community*, 5.

56 "The Foreign Ministers of the European Community, meeting in the framework of European Political Co-operation, have reviewed the principles of the human rights policy of the EC and its member states. They reaffirm that respect for human rights is one of the corner stones of European Co-operation. They further reaffirm their commitment to promote and protect human rights and fundamental freedoms and emphasise the importance in this context of the principles of parliamentary democracy and the rule of law." From the Declaration on Human Rights 21.7.86. Reprinted in Alfred Pijpers, Elfriede Regelsberger and Wolfgang Wessels eds., *European Political Cooperation in the 1980s: a Common Foreign Policy for Western Europe?* (Dordrecht, Netherlands: Martinus Nijhoff, 1988), 362-364.

57 Archer and Butler, *The European Community*, 179.

In this environment Yugoslavia looked ripe for a “European solution to a European problem”.<sup>58</sup> The wider agenda inevitably and unavoidably impinged on policy towards Yugoslavia. The Community was trying to prove itself a competent foreign and security policy actor.<sup>59</sup> This dragged in the debate within the Community about how far this path should be followed, how it should be followed and the relationship with existing institutions, especially NATO.<sup>60</sup> The talk was of ‘interlocking institutions’, but the details of the connections and the roles to be played by each were far from clear.

The EC was therefore pressing a disputed position. It was pursuing different goals from those of traditional international politics and inviting judgement against different standards.<sup>61</sup> However, this did not mean it could escape judgement against the traditional values of international politics, especially the promotion of order. The expectations of success in states-systemic terms remained.<sup>62</sup> The Community faced a tremendously difficult task, but one it had largely set itself. To succeed - to be seen to have brought about progress in Yugoslavia, and in the conduct of European, if not global, security affairs as a whole - would require a very delicate balancing act.

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58 Salmon, “Testing Times for EPC,” 248.

59 Gow and Freedman, “Intervention in a Fragmenting State,” 100. Also “In From the Wings,” *The Economist*, 13 July 1991.

60 Lodge, “From Civilian Power to Speaking with a Common Voice,” 234, 239.

61 The standards of political and economic liberalism.

62 For the emphasis on unity, territorial integrity and the unacceptability of secession in the run up to Slovenia's and Croatia's declarations of independence see Eyal, *Europe and Yugoslavia*, 8-16.



The list of contradictory questions would have to be answered, but the answers were made more complicated by the promotion further up the agenda of liberal standards of legitimacy.<sup>63</sup> For example, stabilising the situation in relation to borders could have been done by stressing territorial integrity and the sanctity of borders and letting the Yugoslav Federal authorities and especially the army crack down on dissidents and separatists. However, this would be illegitimate when judged against the liberal standards of political conduct. A re-centralised federation would also mean supporting the Serb leadership's bad human rights record in Kosovo. This issue was particularly important in the US where 1990 saw two Senate fact-finding missions to the Province, including one led by the Senate minority leader, Robert Dole. The Bush Administration was being pressured to link aid to the Yugoslav Republics' records on human rights and democracy, which in effect meant targeting Serbia.<sup>64</sup> Backing a strong Federation would also support the Serb view of a continuing central role for state management of the economy, clashing with the legitimising principles of liberal economics.

Whilst Yugoslavia brought out the problems of changing priorities in the Western orthodox model of legitimacy by asking the questions *in extremis*, they are, nonetheless, indicative of the type of questions that are becoming more prominent. The Western response to the Soviet military crackdown against pro-independence forces in Lithuania also stressed liberal aspects of legitimacy in terms of the political process. This raised questions about consistency and points to the way legitimacy is

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63 Ibid., where calls for unity were accompanied by emphasis on democracy and respect for human and minority rights in any settlement.

64 A surprisingly large proportion of the coverage of Yugoslavia in, for instance, The New York Times, was concerned with events in Kosovo. For details of the Senate fact-finding missions see Bob Dole, "Uneven Progress," *New York Times*, 3 Dec. 1990, sec. A. David Binder, "US, Citing Human Rights, Halts Economic Aid to Yugoslavia," *New York Times*, 19 May 1991, sec. I.

as open to cynical abuse as other value judgements. The US government found itself attacked for having criticised Croatia and Slovenia for declaring their independence whilst supporting the Baltic Republics.<sup>65</sup>

The international context of the collapse of Yugoslavia was therefore very complicated and rapidly changing. Attention and concern were divided across a range of areas and issues. The opportunities and uncertainties arising from the end of the Cold War meant there was enthusiasm and determination to do something about Yugoslavia's increasingly desperate position but, equally, its power to set precedents could not be ignored and the range of debates it became linked to and the pressing need to address many other issues meant Yugoslavia's particular needs could not always receive proper attention. The legitimacy of Yugoslavia and the legitimacy of Western efforts to deal with its crisis were being judged in new ways and the values to be achieved were both more complicated and potentially contradictory.

The purpose of the next chapter is to look at the action taken, principally by the European Community but also by the United Nations, the CSCE, the US and other major actors to see how these dilemmas were worked out in practice, or how the issues were fudged.

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65 Editorial, "US on Secession: Maybe." *New York Times*, 28 June 1991, sec. A.

## Chapter 6

### *Managing the Collapse of Yugoslavia*

#### 6.1 Introduction

This chapter aims to provide an account and analysis of the Western-led efforts to cope with the collapse of Yugoslavia using the model of legitimacy. The chapter will concentrate on events between the collapse of the League of Communists of Yugoslavia in January 1990 and the decision by the European Community to grant recognition to Croatia and Slovenia on 15th January 1992<sup>1</sup> and the decision by the United States to recognise Croatia, Slovenia and Bosnia-Herzegovina on April 7th 1992, a day after the EC recognised Bosnia.<sup>2</sup> This period is further divided into two: before the declarations of independence by Croatia and Slovenia on June 25th 1991 and after it.

The collapse of the LCY in January 1990 threw the future governing arrangements of the country into turmoil. Whilst, as I have shown, the question of reforming the political process had been discussed within Yugoslavia, the LCY's collapse made it an issue of immediate practical concern.<sup>3</sup> It also became an issue of considerable international concern, making it a sensible starting point for this examination of the Western-led response to the collapse of Yugoslavia.

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1 Jonathan Eyal, *Europe and Yugoslavia: Lessons From a Failure* (London: Royal United Services Institute Whitehall Papers No. 19, 1993), 48. Germany granted recognition on 23rd December 1991, but delayed its "implementation" until 15th of January.

2 Ibid., 63.

3 See above, chapter 4.



The East European Revolutions of late 1989 had also thrown the whole question of the political systems of this part of the world into question and external actors were taking an active interest and playing a major role in the debates about how to make the transition from Communism to liberal democracy.

Yugoslavia's political crisis was opened to international involvement, creating the opportunity for external actors to play a significant role. This came on top of involvement in Yugoslavia's economic travails. Foreign governments and international financial institutions were very important in the Markovic government's efforts to restructure the Yugoslav economy to meet its debt commitments, control inflation, and restore it to competitiveness and growth. Thus, January 1990 saw the beginning of international efforts to restructure Yugoslavia's political system, as well as its economy, and to help it adjust to the radically altered international political situation brought about by the collapse of East European Communism. All three spheres of orthodox Western legitimacy were in play, making this period an excellent test of the concept.

The reason for a sub-division rests on the importance of the 25th of June declarations of independence by Croatia and Slovenia. They marked a shift in the debate for two reasons, which changed the focus of international concerns. The first is the way they placed the issue of what constitutes a legitimate state at the top of the agenda, challenging the states-system's de-colonisation compromise by appealing to the ideal of national self-determination. The second change resulted from the use of force by the JNA in both Croatia and Slovenia. Whilst Croatian Serbs had been skirmishing

with Croat government forces for several months, the intervention by a formal institution of the Yugoslav state presented a much trickier situation for those trying to help the Yugoslavs resolve their differences. Could Yugoslavia be held together by force? Was it legitimate for the JNA to impose unity on those Republics who had declared their desire to leave the country? Was the JNA's constitutional mandate to protect the territorial integrity and political independence of Yugoslavia a legitimate basis for its actions? What could external actors do that would not constitute intervention in the domestic affairs of a sovereign state?

These questions are different from those of how to help Yugoslavia adjust to the changed international circumstances and re-model its political and economic systems. The questions are more difficult and more important because they deal with the very basis of order in world politics.

The granting of recognition provided a partial answer to the questions Yugoslavia's dissolution raised about the basis of statehood. Thus Bosnia's recognition is a useful cut-off date. Actions during the first ten months of Yugoslavia's wars set the framework for subsequent action and tried to answer the big questions about the legitimacy of secession and the relationship between the political and economic forms of states and their international legitimacy. This framework, it seems to me, has remained largely intact ever since, with the issue being how to implement it rather than its content. April 7th is obviously a somewhat arbitrary choice, but a choice needed to be made and it is the best available.

This chapter will analyse the crisis by taking three different looks at the crisis, each focusing on the impact of the three reference points of legitimacy. This will ensure that each receives proper coverage. The danger in doing this is that the account of Yugoslavia's collapse becomes rather repetitive. To try and overcome this Section 6.2 will serve two purposes. As well as being a states-systemic analysis of these events it will also include a general narrative of the response to Yugoslavia's growing crisis and its dissolution. This will enable Sections 6.3 and 6.4 to concentrate on each of the liberal perspectives. A certain amount of repetition will be necessary, but this will serve the positive purpose of showing up the multiple motivations and issues being addressed by some of the actions and proposals being made. Untangling legitimacy in this way will show how the dilemmas and contradictions were dealt with, or ducked as the case may be.

## 6.2 The international response and the legitimacy of the states-system

### 6.2.1 January 1990 - June 25th 1991

Whilst there had been a brief flurry of concern about Yugoslavia's future following the collapse of the Fourteenth Emergency Congress of the League of Communists of Yugoslavia in January 1990 the prospect of Yugoslavia actually disintegrating was not given great credence.<sup>4</sup> EC policy, as the country's main trading partner, throughout 1990 was generally low key and concentrated on the

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<sup>4</sup> "Falling to Pieces?" *The Economist*, 20 Jan. 1990. "The Morning After," *The Economist*, 27 Jan. 1990, 48. Eyal, *Europe and Yugoslavia*, 1.



issue of economic reform.<sup>5</sup> Ante Markovic's plans to restructure the Yugoslav economy and meet the challenge of runaway inflation by pegging the Dinar to the Deutschmark were designed to generate support for new loans for Yugoslavia.<sup>6</sup>

In the US, public concern focused on human rights in Kosovo. The powerful Albanian-American political lobby was able to contribute to two US Senate fact-finding trips to Kosovo during 1990, including one led by the Senate minority leader Bob Dole.<sup>7</sup> These stressed the repression of the Albanian majority and led to the Nickles Amendment to the Federal budget requiring a cut-off of US aid to Yugoslavia in May 1991 unless the State Department certified Serbia was not guilty of gross human rights violations in Kosovo. Whilst the aid package was negligible, \$5 million, more important was the commensurate requirement that the US vote against any new loans in the IMF and World Bank. Whilst Dole called for the targeting of US support on those Republics moving most quickly toward democracy and a market economy, this constituted little threat to long-standing US policy backing the territorial integrity and political independence of Yugoslavia, a stance that had remained basically unchanged since 1949.<sup>8</sup>

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5 53% of Yugoslavia's trade was with the EC. David Buchan, "Yugoslav Aid Tied to Reform," *The Financial Times*, 4 June 1991.

6 Marlise Simons, "Yugoslavia on the Brink," *New York Times*, 24 Jan. 1990, sec. A.

7 This account of US policy rests on the following: Associated Press, "Five Kosovo Province Officials Quit, Citing Serb Repression," *New York Times*, 12 April 1990, sec. A. Associated Press, "Albanian Protest Broken Up in Yugoslavia," *New York Times*, 30 Aug. 1990, sec. A. Bob Dole, "Uneven Progress," *New York Times*, 3 Dec. 1990, sec. A. David Binder, "US, Citing Human Rights, Halts Economic Aid to Yugoslavia," *New York Times*, 19 May 1991, sec. I.

8 Dennison Rusinow, "Challenged Premises of US Policy in Southeastern Europe," in *Problems of Balkan Security: Southeastern Europe in the 1990s*, ed. Paul S. Shoup (Washington DC: The Wilson Center Press, 1990), 253.

Therefore, during 1990 the Western powers showed little concern for the long-term future of Yugoslavia as a single state. Concern increased dramatically with the result of the Slovene referendum on independence held two days before Christmas. Of the 94% turnout, 89% voted for a “sovereign and independent” Slovenia.<sup>9</sup> The prospect of secession galvanised action primarily designed to ensure Yugoslavia remained together. It also drew attention to the increasingly fractious Serb minority in Croatia, which had been engaging in a series of minor battles with the Croatian authorities around the town of Knin in the Krajina since the election of Franjo Tudjman’s government in April 1990.<sup>10</sup> Following an unofficial referendum on 19th August the Knin Serbs declared independence.<sup>11</sup>

The European Community, as Yugoslavia’s largest trading partner, and with Greece and Italy bordering the country, led the way in encouraging the increasingly desperate negotiations on a new constitutional arrangement among the Republics during the first six months of 1991.<sup>12</sup> The focus of the EC’s efforts was the Federal government of Ante Markovic and, in particular, his reform plan for the struggling Yugoslav economy.<sup>13</sup> May 1991 brought home the possibility of a break-up to the international community when the constitutional talks collapsed.<sup>14</sup> On the 6th, the leaders of the Yugoslav People’s Army (JNA) demanded the imposition of a state of emergency in

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9 “Waiting for Slobo,” *The Economist*, 5 Jan. 1991, 44.

10 “Croatia’s New Master,” *The Economist*, 28 April 1990, 66.

11 “The Serbs Start to Play it Rough,” *The Economist*, 25 Aug. 1990, 33.

12 For an account of these negotiations and the developing crisis in Yugoslavia see Lenard J. Cohen, *Broken Bonds: the Disintegration of Yugoslavia* (Boulder, Colorado: Westview Press, 1993), 195-214.

13 Eyal, *Europe and Yugoslavia*, 1, 3-4, 7, 8. Judy Dempsey, “Markovic Backed,” *The Financial Times*, 30-31 March 1991. Judy Dempsey, “Yugoslav Premier Claims Western Support for Reforms,” *The Financial Times*, 16 April 1991.

14 Cohen, *Broken Bonds*, 195-214.

Croatia allowing them to crack down on separatists, but this was blocked by the Federal Presidency.<sup>15</sup> The 12th saw a new referendum among the Serbs of Croatia with over 90% voting to remain in Yugoslavia.<sup>16</sup> On the 15th the Serb, Montenegrin, Kosovan, and Vojvodinan representatives blocked the accession of the Croat representative, Stipe Mesic, to the chairmanship of the Federal Presidency.<sup>17</sup> On the 19th, Croatia's referendum on independence, boycotted by the Croatian Serbs, produced 93% in favour.<sup>18</sup>

By the end of the month, Jacques Delors, President of the European Commission, and Jacques Santer, Prime Minister of Luxembourg and Chairman of the Council of Ministers, were in Belgrade stressing territorial integrity as crucial to any future relationship with the EC.<sup>19</sup> The United States was offering to suspend its threatened aid cut-off if Mesic was allowed to assume the Presidency as part of wider backing for a united Yugoslavia.<sup>20</sup> The Delors-Santer visit provoked a positive response to Markovic's request for up to \$5 billion of aid designed essentially to inject credibility into the Federal Government and demonstrate EC support for continued unity. The EC's conditions focused on political stability, renewed negotiations on a

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15 "Yugoslavia on the Brink," *The Economist*, 11 May 1991, 51.

16 Reuters, "Yugoslavia's New Leader Might Seek UN Help," *The Financial Times*, 14 May 1991.

17 Cohen, *Broken Bonds*, 212.

18 Ibid.

19 David Gardner and Laura Silber, "Brussels Warning to Yugoslavia on Aid," *The Financial Times*, 21 May 1991. David Buchan, "EC Takes Cautious Line on Yugoslavia," *The Financial Times*, 29 May 1991.

20 Judy Dempsey, Nancy Dunne and Laura Silber, "US Presses Yugoslavia on Presidency," *The Financial Times*, 22 May 1991.



constitutional settlement, improved minority rights and rotation of the Federal Presidency.<sup>21</sup>

In June, the arena for international pressure for the maintenance of the unity of Yugoslavia was widened. At the meeting of the CSCE in Berlin on the 19th, concern was expressed at the situation - although only with Belgrade's permission, emphasising the principle of non-intervention - and unity and territorial integrity were again stressed.<sup>22</sup> US Secretary of State James Baker visited Belgrade a few days later where he publicly expressed US opposition to secession. The EC announced more aid as long as unity was maintained. These offers were being made as late as 24th June, the day before Croatia and Slovenia declared independence.<sup>23</sup>

Gow and Freedman are correct in their assertion that:

The Yugoslav deadlock was strongly reinforced by Western policy. Led by the EC, that policy gave its backing to the weak federal government in Belgrade and refused to admit the possibility of a re-ordering of Yugoslavia as Croatia and Slovenia, frustrated with the stalemate in inter-republican and federal politics, began to talk about independence.<sup>24</sup>

However, this should perhaps not be altogether surprising. Appreciating both Western ideas of legitimacy and the context of a rapidly changing international environment means the decisions and actions can be seen as reflecting a fairly consistent line. The crisis had developed very quickly - from a position where dissolution was not taken

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21 Judy Dempsey, "Yugoslav Government Seeks \$4bn Boost," *The Financial Times*, 3 June 1991. David Buchan, "Yugoslav Aid Tied to Reform," *The Financial Times*, 4 June 1991.

22 James Gow and Lawrence Freedman, "Intervention in a Fragmenting State: the Case of Yugoslavia," in *To Loose the Bands of Wickedness: International Intervention in Defence of Human Rights*, ed. Nigel S. Rodley (London: Brassey's, 1992), 100.

23 "Yugoslavia is Such a Bother," *The Economist*, 22 June 1991, 47-48. Also *ibid*.

24 Gow and Freedman, "Intervention in a Fragmenting State," 97.

seriously to declarations of independence and growing armed conflict - in six months. In trying to react to such rapidly developing and complicated events it was perhaps almost inevitable that the international community would attempt to insist on the basic principles of international order and conduct. This was reinforced by the international background against which the crisis developed: the possibility of the break-up of Czechoslovakia; unrest in the Baltic states of the Soviet Union; the concentration in the initial phases of the crisis on the Gulf War; the inexperience of the leading institution, the EC, in handling such issues; and its need to maintain a united stance.

All of these factors contributed to the tendency to stick to the basics: to press for the maintenance of the territorial integrity and unity of Yugoslavia, and to focus efforts on those Federal institutions seeming to promise this. This also avoided charges of intervention by attempting to deal directly with the Republican leaderships who were really driving events during this period. Unfortunately, the consequences for Yugoslavia were damaging as policy towards the secessionist Republics was judged on the effects on Yugoslavia as a whole and even on the Soviet Union and Czechoslovakia, rather than on their own merits.<sup>25</sup>

Western policy, wittingly or unwittingly, backed Serbia, reinforced its intransigence and contributed to the diplomatic impasse. Because the West wanted what Serbia wanted, Serbia and the federal army had little incentive to be flexible. ... Western policy effectively served to legitimise the use of force against first Slovenia and then Croatia after the two declared their independence.<sup>26</sup>

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25 Ibid., 98.

26 Ibid.

The value-system, the set of principles against which the use of force was legitimised by Western policy, was that of the states-system. The inevitable corollary of stressing territorial integrity and sovereignty, especially at the CSCE where the need to gain the support of the Soviet Union was crucial,<sup>27</sup> was to add to the belief in the Serb and JNA leaderships that measures would be tolerated to suppress what they regarded, and the EC also seemed to regard, as a domestic problem.<sup>28</sup> The need for Soviet support also points to the importance of consensus to legitimacy.<sup>29</sup> Gaining Soviet support in an institution premised on unanimity highlights the limited basis of consensus on the orthodox Western model of legitimacy. Whilst the EC could act in ways designed to emphasise liberal legitimising values this was impossible when states from outside the Western model were involved.<sup>30</sup> The states-system provided the only basis for the consensus necessary to get a vote carried in the CSCE. This is suggestive of the states-system's role as the only globally applicable element of the orthodox Western model.

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27 Edward Mortimer and Lionel Barber, "Diplomacy Tested by Territorial Integrity," *The Financial Times*, 4 July 1991. Robert Mauthner and Ariane Genillard, "Moscow Drops Objection to CSCE Mission," *The Financial Times*, 5 July 1991. Eyal, *Europe and Yugoslavia*, 15. For the importance of the principle of territorial integrity to the CSCE see Marc Weller, "The International Response to the Dissolution of the Socialist Federal Republic of Yugoslavia," *American Journal of International Law* 86 (1992): 571-572.

28 Eyal, *Europe and Yugoslavia*, 5, 10.

29 See above, 2.7.

30 See below, 6.3, 6.4.



6.2.2 25th June 1991 - 7th April 1992

The declarations of independence and especially the use of force by the JNA against Slovenia and, later in July, in large scale support of the Croatian Serbs, created a number of dilemmas for the leadership of the EC in particular in its efforts to manage the crisis. These bedevilled all subsequent efforts to broker a durable cease-fire, gain the deployment of monitors and peace-keepers, and establish negotiations on a political settlement. These dilemmas have important roots in the principles of the states-system and the consequent requirement for setting policy towards Yugoslavia in a broader context.

They revolve around a nexus of states-systemic norms and the political situation of Europe. The powerful principles of the non-use of force, the territorial integrity of states and the inviolability of borders combined badly with hopes of building a new political system in Europe that emphasised democracy, market economics, human rights, co-operation and integration over traditional Realist power politics. Whilst these are clearly not states-systemic issues, they lie behind the difficulties experienced in trying to apply states-systemic norms and international law to the crisis. Understanding the relationship of these issues creates an appreciation of the difficulties and constraints the EC and its member states found themselves under. It helps account for the form and nature of the policy initiatives and choices following the declarations of independence in a way not possible by focusing on consistency with existing practice and precedents or the following of established procedures.

The declarations of independence in the face of diplomatic and economic resistance from outside threw Yugoslavia's future into new doubt.<sup>31</sup> The JNA's march across Slovenia horrified Western political elites who had been heralding the new form of politics in Europe in which armed force played a minor role and no role at all in domestic political disputes.<sup>32</sup> There was substantial movement in previously unyielding opposition to major changes in the Yugoslav Federation's constitutional arrangements. A new flexibility and willingness to consider dramatic reconstitution of Yugoslavia appeared, although within its existing borders and on the basis of unity.<sup>33</sup> Unfortunately it was at least six months too late and tended to focus on options the Yugoslavs had already found it impossible to agree upon.

The breaching of the taboo on the use of force meant the EC in particular was looking for ways to offer protection to the Slovenes and Croats without getting militarily involved or being seen to recognise their independence. This proved difficult because of the very limited range of mechanisms open to them. They fell on principles of international law; in particular the non-use of force and the inviolability of borders.

These had the benefits of being easily agreeable principles enabling the CSCE to unite behind the EC's efforts, thus keeping the Soviet Union on board.<sup>34</sup> They were principles that discouraged other secessionists whilst hopefully deterring any

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31 Editorial, "The Challenge for Yugoslavia," *The Financial Times*, 26 June 1991.

32 David Buchan, *Europe: the Strange Superpower* (Aldershot: Dartmouth, 1993), 70.

33 The willingness to take options such as recognition and fundamental constitutional change seriously, is demonstrated in the Financial Times' coverage of Yugoslavia on 4 July 1991. The Brioni Agreement of 7 July 1991 included a cease-fire, a three month suspension on Croatia's and Slovenia's declarations of independence and EC brokering for a new constitutional settlement, without preconditions or limitations. Gow and Freedman, "Intervention in a Fragmenting State," 104. Also *ibid.*, 71.

34 Eyal, *Europe and Yugoslavia*, 30. Gow and Freedman, "Intervention in a Fragmenting State," 105-107.

potentially authoritarian military crackdowns or coups in other states with restive minorities.<sup>35</sup> They fitted with the desire to build a security order based on something other than force, reflecting the EC's desired approach to foreign policy issues and its self-image as a new type of foreign policy actor. The problem, of course, is that these principles are applicable to states and not to republics of a federation, even when they have declared their independence.<sup>36</sup> International law offers no particular protection to internal borders, neither does it prohibit the use of force by a constitutionally mandated authority attempting to maintain the territorial integrity and political unity of a recognised state and member of the United Nations.

Therefore, in an effort to respond to what was regarded as, and declared to be, an illegal use of force,<sup>37</sup> Western-led efforts to offer protection to Slovenia and Croatia inevitably and unavoidably offered tacit recognition to their status as independent political entities, if not yet states. This in turn contributed to their unwillingness to engage in negotiations on a new Yugoslavia and to seek to emphasise their entitlement to the protection of international law and thus international intervention on the basis of collective self-defence to protect their borders and territorial integrity. It also added to the Croatian government's half-hearted attitude to the protection of minority rights, an issue on which it was looking to claim the protection of the sovereign right to non-intervention.<sup>38</sup>

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35 Gow and Freedman, "Intervention in a Fragmenting State," 98.

36 Weller, "The International Response to the Dissolution of the SFRY," 575, 580.

37 Ibid., 575.

38 'Sovereignty' and the internal nature of the problems between the Tudjman government and the Croatian Serbs was being stressed by the government even before its declaration of independence. Cohen, *Broken Bonds*, 132-135, 206-207, 274-275.



Europe was over a barrel. It could not condone the use of force to hold Yugoslavia together, but it could not allow it to fall apart out of fear of the precedent and of the potential for unleashing massive instability in the Balkans and the Soviet Union. It could not allow the alteration of borders, especially by force, again because of the danger of such a precedent. But in trying to maintain Yugoslavia's internal borders it was adding weight to the claims to statehood it was trying to play down and ensuring the fighting in Croatia would be likely to intensify and spread to Bosnia-Herzegovina as the Serbs pursued their demand for a unified Serb state. The measures available to persuade the parties to accept EC involvement in their problems were inadequate and unconvincing. The reliance on diplomatic pressure and economic carrots and sticks reflected the mode of politics of Western Europe, not of a nationalistically charged fight in the Balkans.<sup>39</sup> The EC was pursuing its new and desirable form of politics whilst the Yugoslavs, especially the Serbs and Croats, played by old power-political rules. The EC could not afford to get down in the dirt and struggle along with them for both practical reasons - the EC's lack of military capability - and for reasons of principle - it would shatter the dream of a new European security system. That the details of the EC's role in such a scheme were also extremely controversial and hotly disputed, with EC states jostling for position in the run up to the Maastricht summit, added to the complexity and confusion. It also added to the tendency to fall back on tried, trusted and, perhaps most importantly, agreed positions based on the principles of international law.

This also lay behind the disputes over the role of self-determination in the crisis and how it should be interpreted. The de-colonisation settlement on self-determination as

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39 Eyal, *Europe and Yugoslavia*, 76.

a conservative principle was supported by most of the major players in the efforts to control Yugoslavia's demise. The Soviet Union, United States, United Kingdom, France and Spain were the standard bearers. The first four, as Permanent Members of the UN Security Council had responsibilities as guardians of the principles of international order. All except the US shared concerns about the effects on minorities of their own of a major alteration in the self-determination compromise.<sup>40</sup>

The pressure for a more liberal interpretation of self-determination was led by Germany. This was mainly due to its having benefited from national self-determination in its own re-unification.<sup>41</sup> There seems to have been a genuine belief in the German government that it would be impossible for Germany to attempt to deny this right to Croatia and Slovenia. This position was reinforced by domestic pressure from south-German Catholics for the government to back Catholic Croatia and Slovenia and also from the 400 000 Croat *Gastarbeiter* in Germany.<sup>42</sup> These seem to be far more convincing reasons for German behaviour than tenuous and defamatory, but oft-repeated, talk of links between Nazi Germany and its Croatian puppet state of World War Two.<sup>43</sup>

The German government's approach, however, challenged the existing understanding of self-determination and was a two-edged sword. Whilst it could be used to try and protect Croatia and Slovenia and it recognised the enormous electoral mandate their

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40 David Gardner, "Dilemma For EC With No Peace to Keep," *The Financial Times*, 8 Aug. 1991.

41 Edward Mortimer and Lionel Barber, "Diplomacy Tested by Territorial Integrity," *The Financial Times*, 4 July 1991.

42 Paul Lewis, "UN Yields to Plans by Germany to Recognise Yugoslav Republics," *New York Times*, 16 Dec. 1991, sec. A.

43 Edward Mortimer, "A Curious Role Reversal," *The Financial Times*, 18 Dec. 1991. For suggestions of such links see Nora Beloff, "Yugoslavia: an Avoidable War," *New European* 5 (1992).

governments had for their course of action, it threatened a very delicately balanced apple cart. It pointed firmly in the direction of the need to move borders, something unacceptable not only to the rest of the leading international players but to the Croats and Slovenes as well. Indeed, Croatian President Tudjman made very plain his belief that minorities had absolutely no right to self-determination in a sovereign state as the justification for his refusal to negotiate the future of the Croatian Serbs.<sup>44</sup> This was certainly a strange position for the leader of a government basing its claims to sovereignty on self-determination.<sup>45</sup> These were exactly the grounds on which the Croatian Serbs were basing their claims to secede.<sup>46</sup>

The impossibility of finding a sustainable distinction between these two positions greatly undermined the EC's and others' insistence on the impossibility of moving borders. The borders of Croatia and Slovenia were thus the result of a legal convenience and the need to defend inappropriate and arguably inapplicable principles in the name of wider international order, rather than the result of a balanced analysis of how best a settlement could be achieved. No convincing reasons were ever given as to why the existing internal borders of Yugoslavia should have been maintained, except for the unacceptability of the use of force to alter them.<sup>47</sup> This application of an international legal principle added to the sense of statehood in Croatia and Slovenia and in the case of the former encouraged it to hold out against any possible negotiated change. Equally, it added to the determination of the Croatian

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44 Cohen, *Broken Bonds*, 275.

45 Ibid., 94-102, 208.

46 Ibid., 126-135, 178-179. Also "The Serbs Start to Play it Rough," *The Economist*, 25 Aug. 1990, 33-34.

47 Eyal, *Europe and Yugoslavia*, 49.



Serbs, backed by Serbia and the JNA, to bring about changes and to argue the case for the self-determination of the Croatian Serbs. A defensible case could have been made for the retention of borders, but the international community never made serious attempts to do so.<sup>48</sup>

These kinds of concerns, contradictions and confusions can be seen running throughout the EC's peace efforts making it easier to understand the reasoning behind EC proposals. The initial reaction focused on a cease-fire, a return to barracks by the JNA and the suspension of Croatia's and Slovenia's declarations of independence for three months. On the 7th of July the Brioni Agreement seemed to achieve these goals and open the way for constitutional negotiations on the future of Yugoslavia without precondition or limitation.<sup>49</sup> The EC was adopting a classic, UN-like stance of being an impartial broker of a settlement, rather than an active supporter of a particular solution.<sup>50</sup> This approach reflected traditional diplomatic and states-systemic practice on the role of external powers in international disputes. When EC monitors were later deployed they attempted to be scrupulously impartial, dealing with whoever was in charge and aiming to establish cease-fires that offered no significant military benefit to either side.<sup>51</sup> The following of international customary practice is significant because this again added to the sense that the statehood of Croatia and Slovenia, although not recognised, was being seen as an increasingly accomplished fact.

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48 Ibid.

49 Gow and Freedman, "Intervention in a Fragmenting State," 102-104.

50 Gow and Freedman note the potential incompatibility of the neutrality and impartiality necessary for cease-fire negotiations with the leadership and drive important to gaining a general political settlement. Ibid., 94.

51 Judy Dempsey, "EC 'Ice Cream Men' Feel the Heat," *The Financial Times*, 9 Oct. 1991.

At the same time, however, the EC was undermining its impartiality by its more principled stance on the condemnation of the use of force and the need to promote and protect democratic political processes.<sup>52</sup> This was encouraged by domestic political pressures from populations horrified at the tales of brutality and carnage that were to flow increasingly quickly from Yugoslavia.<sup>53</sup> This was particularly important in Germany where the media took a more openly pro-Croat and Slovene stance than elsewhere.<sup>54</sup> Blaming the Serbs for the bulk of the brutality and the condemnation of Croatian Serb separatism created a strong impression, especially among Serbs, that the EC was biased, that it could not be a neutral arbiter and conciliator, and was instead pushing the Croat and Slovene case whilst denying the same rights to the Serbs outside Serbia.<sup>55</sup>

Other important actors were remarkably quiet. The Bush Administration in the US was maintaining its support for territorial integrity and unity and finding blame on all sides. It was happy to let the EC take the lead, offering support but little else. It was not until the end of September that the US came out strongly against the Serbs, singling them out for particular condemnation.<sup>56</sup> The Soviet Union was too busy pulling itself apart to take an active role in Yugoslavia. In August President Gorbachev was briefly overthrown in a military coup, symbolising the turmoil in the

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52 This became official EC policy in August and continued throughout EC peace-making efforts thereafter. "Not 1914, But Not 1991 Either," *The Economist*, 10 Aug. 1991, 15.

53 Gow and Freedman, "Intervention in a Fragmenting State," 101.

54 John Tagliabue, "Bold New Germany: No Longer a Political Dwarf," *New York Times*, 16 Dec. 1991, sec. A.

55 Laura Silber, "Serbs Close Ranks Against EC Constitutional Plan," *The Financial Times*, 22 Oct. 1991.

56 Thomas L. Friedman, "US Policy on Yugoslavia Shifts to Curbing Serbs," *New York Times*, 27 Sept. 1991, sec. A.

country. The Soviet stance at the CSCE in June had been to uphold the organisation's rules. This position was maintained and seems to represent a straightforward fall back position until the situation in the Soviet Union resolved itself. Non-intervention and territorial integrity suited the need to discourage the Soviet Union's own secessionists, but positive policy proposals did not appear beyond Gorbachev hosting an ineffective meeting between Milosevic and Tudjman in October.<sup>57</sup>

The failure of the Brioni cease-fire and the lack of progress in the EC aided negotiations tracked the intensifying fighting in Croatia. It also pushed the EC, under popular pressure, away from UN-like impartiality. The Hague Peace Conference opened in early September under the chairmanship of Lord Carrington and was, in effect, about establishing and then trying to impose an agreement for the reconstitution of the country.<sup>58</sup> The Conference marked a much more aggressive approach to the crisis by the EC. Attendance was made virtually compulsory, under threat of selective economic sanctions. Serb intransigence and reluctance was overcome by the intense pressure put on Milosevic by the Community.<sup>59</sup>

The composition of the conference is itself interesting and points to some of the confusion between the various principles the EC was trying to promote. It excluded representatives of the Croatian Serbs or the increasingly restive Bosnian Serbs.<sup>60</sup> This

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57 Foreign Staff, "Serb and Croat Leaders Sign Peace Pledge in Moscow," *The Financial Times*, 16 Oct. 1991.

58 For conference mandate, including binding arbitration, see David Gardner, "EC Forces the Pace of Yugoslav Peace Process," *The Financial Times*, 4 Sept. 1991.

59 David Gardner and Laura Silber, "EC Begins to Isolate Serbia," *The Financial Times*, 30 Aug. - 1 Sept. 1991. Also Eyal, *Europe and Yugoslavia*, 37.

60 See Weller, "The International Response to the Dissolution of the SFRY," 576-577 for composition of the Conference.



was insisted on by the EC and, not surprisingly, by Croatia. This partly reflected the democratic mandate of the Croatian and Slovenian governments and also states-systemic principles about a government being responsible for its entire territory, its embodiment of popular sovereignty and the indivisible nature of the sovereign authority. This was rather a strange mixture of states-systemic and liberal principles themselves struggling to contain powerful ethno-nationalism.

Non-attendance for the Croatian Serbs was designed to demonstrate the complete lack of international recognition of these groups, but it badly damaged the chances of the Conference achieving agreement.<sup>61</sup> The Croatian Serbs were extremely unlikely to accept a deal to which they were not party and their absence from the negotiations made pressuring them much harder. It also gave the Serbian government an excellent excuse for blocking progress. They could claim they may be happy to accept a particular element of a settlement, but the Croatian Serbs would never agree and therefore it could not form the basis of a lasting peace. This strategy of concentrating on Serbian, Croatian and Army representatives was repeated by the UN in its efforts to negotiate a cease-fire from November onwards.<sup>62</sup>

The need to try to maintain the strange, quasi-international legal position the EC had adopted in an effort to extend some sort of protection to Croatia and Slovenia, but without granting them formal recognition, meant they had cut themselves off from

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61 "Push for Peace," *The Economist*, 7 Sept. 1991, 53.

62 See Weller, "The International Response to the Dissolution of the SFRY," 583-584 for the UN contacts with Yugoslav "parties", which, in context, indicates the Federal Presidency, the head of the JNA and the Republican Presidents. Cyrus Vance, the UN Special Envoy, began cease-fire negotiations at the end of November following UN Security Council Resolution 721 (25.9.91) authorising deployment of a peacekeeping force to Croatia if a durable cease-fire could be arranged. Judy Dempsey and Quentin Peel, "Vance to Return for Key Yugoslav Talks," *The Financial Times*, 29 Nov. 1991.

negotiating with the parties whose consent would determine the success of any agreement.

The failure of the threat of economic sanctions, the failure of the presence of cease-fire monitors, the failure of diplomacy to achieve a lasting cease-fire or to lay the basis for a negotiated political settlement pushed recognition and the use of force, or at least the deployment of peace-keepers, steadily up the agenda during the autumn.<sup>63</sup>

An 'interposition force' had been proposed by the French early on, with the WEU suggested as the institution to do the job.<sup>64</sup> This suggestion had much more to do with the future of the WEU, French desires to see it developed as the defence arm of the EC and keeping NATO and thus the US out of the picture than it had to do with a practical step to stop the fighting.<sup>65</sup> The EC's lack of military capability and competence, something important to its position as a new sort of foreign policy player for a new sort of Europe, rendered incredible almost all suggestions of peacekeeping deployments. Those opposed to an EC military role in principle, such as the UK, found plenty of good practical reasons as to why such an idea was a non-starter.<sup>66</sup>

The raising of the idea, and the suggestions of calling in the UN if the EC could not perform the task, added to the Croatian government's 'victim strategy'.<sup>67</sup> The more

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63 See Gow and Freedman, "Intervention in a Fragmenting State," especially 116-122. Also press coverage from late August until early November.

64 This first came in late July. Eyal, *Europe and Yugoslavia*, 32.

65 Buchan, *Europe: the Strange Superpower*, 68. Ibid., 32-33.

66 UK opposition on the grounds that peace could not be imposed but had to be agreed by the parties appeared as soon as the French proposals for military intervention appeared. David Gardner and Laura Silber, "France Seeks Yugoslav Force," *The Financial Times*, 6 Aug. 1991.

67 "In Parts," *The Economist*, 31 Aug. 1991, 46. Also Gow and Freedman, "Intervention in a Fragmenting State," 111.

intense the fighting, the louder the calls for external intervention and the greater the chance of a rescue for the outgunned Croatian defence force which would at least freeze the situation whilst the Croats built up their strength to take back the third of the Republic the Serbs were able to seize.<sup>68</sup> Therefore, Croatia consistently pressed for any deployment to take place on the Croatian border rather than along what passed for a front-line because of the need to defend the borders of the Republic and achieve as much tacit international recognition as possible.<sup>69</sup> The EC's stance, determined by its approach to the states-system in the crisis, increased the opportunities for Croatia to pursue such a strategy and decreased its incentive to take all possible steps to secure a cease-fire and political agreement.

UN involvement, which began in September with a tentative discussion of the crisis, again highlights the constraints established by the states-system's principles and its value of order. To many a Security Council meeting was only acceptable because it was requested by Yugoslavia. Prominence was given to the view of the fighting as a civil war and UN concern rested on its constituting a threat to international peace and security. This allowed the invocation of Chapter VII and the establishment of a mandatory arms embargo. Uniquely, this was also at the request of the Yugoslav representative. Secessionism was condemned and territorial integrity stressed. References to self-determination fell within the terms of the de-colonisation conservative compromise.<sup>70</sup> The principles of the states-system were very much to the

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68 Cohen, *Broken Bonds*, 232.

69 Laura Silber and Ronald van der Krol, "Serb Leaders Appeal for UN Peacekeeping Force," *The Financial Times*, 11 Nov. 1991. The Croatian government eventually agreed to the deployment of peace-keepers in the battle zone at the end of November, by which time recognition was inevitable.

70 For an account of the debate in late September see Weller, "The International Response to the Dissolution of the SFRY," 577-581.



fore, the concern at setting precedents was acute. The imminent dissolution of the Soviet Union was increasingly obvious and the position of President Gorbachev, widely regarded as crucial to progress in East-West relations and the transformation of the Soviet Union, weakening dramatically. This caused a hiatus in Soviet foreign policy and focused international concern on stability and the unknown dangers of the possible break-up of a nuclear Superpower.

The last throw of the dice before recognition came in October. Carrington was able to get Milosevic to agree to the secession of Croatia as long as suitable guarantees of the rights of the Croatian Serb population were given.<sup>71</sup> The threat of recognition, the only big card in the EC hand in the face of such determined nationalism, was waved prominently in order to achieve this grudging but major concession.<sup>72</sup> The threat of economic sanctions against any party not taking a positive attitude to what was seen as the last great hope for a peaceful resolution to the crisis was vigorously used.<sup>73</sup>

The EC's proposal at the Carrington Conference was to establish a mini-EC as the basis of a Yugoslav confederation of sovereign states.<sup>74</sup> Institutions such as a single market, possibly a common currency, an executive commission, a council of ministers and a court of appeal were proposed. Special emphasis was laid on the protection of minority rights via autonomous status and rights to dual nationality and educational independence. Borders, however, were to remain unaltered. This was very similar to

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71 Gow and Freedman, "Intervention in a Fragmenting State," 118.

72 Ibid.

73 On October 28th the EC gave Serbia one week to accept the plan or face comprehensive economic sanctions. Ibid., 121. Also Weller, "The International Response to the Dissolution of the SFRY," 582-583.

74 Gow and Freedman, "Intervention in a Fragmenting State," 119-120. Also David Buchan, "Copy Us, Community Tells Warring Yugoslavs," *The Financial Times*, 19-20 Oct. 1991.

proposals put by Slovenia, Croatia, Bosnia-Herzegovina and Macedonia in the run up to the June declarations of independence. They had proved unacceptable then and they were to prove unacceptable now as Serbia rejected the idea, insisting on the sovereignty of the Serb nation and describing the proposals on guarantees of minority rights as unjustified interference in the internal affairs of Serbia. The effort to establish a states-systemic based compromise was in deep trouble.

The apparent breakthrough collapsed under the weight of renewed fighting in Croatia. The JNA and Croatian Serbs launched new offensives against Dubrovnik and, in eastern Croatia, around Vinkovci, Vukovar and Osijek; the Croatian government continued its blockade of JNA barracks and launched local counter attacks.<sup>75</sup>

Negotiations to gain Serb acceptance of the peace plan continued. The problem of the interpretation of self-determination continued to plague the talks. The existence of 'abnormal circumstances' in which the right to self-determination may be consistent with secession had come with the take-over of the Federal Presidency by the representatives of Serbia, Montenegro, Kosovo and Vojvodina on 8th October. This caused the EC to declare the Federation could no longer be regarded as operating and was now in a state of dissolution, a position accepted by the UN Security Council.<sup>76</sup> This opened the way for a 'softer' interpretation of the law on self-determination but this was compromised by the strict insistence by Republican governments on the non-existence of the right to self-determination for minorities within their borders, hardening the position of their opponents and making it impossible for the EC to

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<sup>75</sup> See also press coverage from late September until late November for the progress of these attacks and counter attacks.

<sup>76</sup> Weller, "The International Response to the Dissolution of the SFRY," 582-583.

broker a consistent line on crucial issues such as why the Croats were entitled to secede, perhaps under the ‘abnormal circumstances’ provisions, but the Croatian Serbs were not when, surely, ‘abnormal circumstances’ existed in Croatia.<sup>77</sup> The EC’s hopes of protecting and promoting the trends towards liberal political and economic transformation in Croatia and Slovenia through the mechanisms of the states-system and international law were again found to be contradictory.

The last desperate effort to achieve a political solution maintaining some form of Yugoslavia came in November with further EC ultimatums to the Serbs to stop the fighting and accept the Carrington Plan or face sanctions and the recognition of Croatia and Slovenia.<sup>78</sup> Serbia’s refusal and the consequent imposition of sanctions meant the EC had finally dropped its stance of impartiality and was now firmly behind a particular plan and in support of the independence of those Republics wishing it. The US continued to oppose secession and recognition, arguing they would cause the fighting to spread. However, the US went along with the EC on sanctions on Serbia following its policy shift in September to single out Milosevic and the JNA as primarily responsible.<sup>79</sup> The change in the EC’s approach had serious consequences for its efforts at cease-fire negotiation and monitoring, where scrupulous impartiality was necessary. These were effectively handed over to the UN from mid-November, revitalising the UN’s involvement in the crisis.<sup>80</sup>

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77 For an analysis of these complicated issues see Martti Koskenniemi, “National Self-Determination Today: Problems of Legal Theory and Practice,” *International and Comparative Law Quarterly* 43 (1994): especially 264-269.

78 “Powerless are the Peacemakers,” *The Economist*, 9 Nov. 1991.

79 Steven Greenhouse, “US Goes Along with Sanctions on Yugoslavia,” *New York Times*, 10 Nov. 1991, sec. I. David Binder, “US Suspends Trade Benefits to all Six Yugoslav Republics,” *New York Times*, 7 Dec. 1991, sec. I.

80 Gow and Freedman, “Intervention in a Fragmenting State,” 122-123.



Looking at the recognition decision brings out several advantages from the point of view of managing the crisis within the principles of the states-system. It would effectively internationalise the conflict, making JNA support for Serbs in Croatia, and increasingly in Bosnia where limited fighting had started in September, much more clearly illegal and therefore easier to mobilise international condemnation against.<sup>81</sup> It would grant full legal protection to the borders of the existing Republics. It would mark the isolation of Serbia and Montenegro and, by effectively 'de-recognising' Yugoslavia, make it necessary for them to seek recognition themselves, especially as they wanted to be regarded as the legal inheritors of Yugoslavia's international personality.

From the point of view of Realist, pragmatic politics it also made some sense. The fighting was well and truly underway and therefore the argument that recognition would intensify it had lost weight.<sup>82</sup> It would also implement a bluff the Serbs had been calling far too often and therefore act as a shock tactic.<sup>83</sup> It would finally mark the acceptance of the reality that Yugoslavia was dead, something that had been ridiculously denied for months, allowing more realistic measures to be taken.<sup>84</sup> It would remove the veto of the Federal authorities over the deployment of peacekeeping forces on the territory of Croatia as the invitation would only have to come from the Croatian government.<sup>85</sup>

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81 Weller, "The International Response to the Dissolution of the SFRY," 575.

82 Edward Mortimer, "A Curious Role Reversal," *The Financial Times*, 18 Dec. 1991.

83 Gow and Freedman, "Intervention in a Fragmenting State," 124.

84 Eyal describes recognition of Croatia and Slovenia as, "bowing to the inevitable". Eyal, *Europe and Yugoslavia*, 49.

85 Weller, "The International Response to the Dissolution of the SFRY," 575.

This sort of argument was championed by the Germans. By the middle of December they had won the rest of the EC round, helped by the threat to break ranks and recognise unilaterally, throwing the Community into disarray just as the Maastricht Summit on its future was to open.<sup>86</sup> Most of these points were appropriate really only to Croatia and Slovenia, overlooking the position of Bosnia-Herzegovina, which had been publicly highlighted as a potentially even more serious problem for several months.<sup>87</sup> The EC fudged the issue by using the arbitration commission established under the Carrington Conference in the Hague and headed by the French constitutional lawyer Robert Badinter to judge the case for recognition of any Republic against a set of criteria.<sup>88</sup> These focused less on traditional, Montevideo Convention-type principles, than on matters to do with the democratically expressed will of the population for independence and the guarantees of minority rights in new states. On December 16th, the EC invited all the Republics of Yugoslavia to apply for recognition, saying a decision would be announced on January 15th, following a report on each application by M. Badinter. This was despite opposition to recognition from Lord Carrington, UN Secretary General Perez de Cuellar and the US.<sup>89</sup> All three continued to stress the threat of recognition causing the fighting to spread and the potentially dangerous precedent of recognising secessionists.

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86 Gow and Freedman, "Intervention in a Fragmenting State," 124-125.

87 It was identified by *The Economist* as the pivotal Republic as early as 1990. "War?" *The Economist*, 6 Oct. 1990. Also "Pandora's Bosnia," *The Economist*, 20 July 1991, 47-48. Also *ibid.*, 124.

88 David Buchan, *Europe: the Strange Superpower*, 77.

89 David Gardner, "Bonn Shows Distaste for EC Yugoslav Fudge," *The Financial Times*, 18 Dec. 1991.

Macedonia and Bosnia-Herzegovina joined Croatia and Slovenia in applying.<sup>90</sup> This was a particularly risky strategy for Bosnia because of the stated and armed opposition to secession from much of its Serbian population.<sup>91</sup> For the Croats and Muslims in Bosnia, however, being left to join Montenegro and Serbia in a new Yugoslavia was not an attractive proposition. EC policy towards Croatia and Slovenia had left them with no option but to join the dash for statehood in the hope of gaining the same protection for their borders and for their political liberties as Slovenia and Croatia were seeking.<sup>92</sup>

On December 23rd Germany recognised Croatia and Slovenia, leaving only the 'implementation' of recognition until after January 15th.<sup>93</sup> This upped the pressure on the rest of the EC to ensure both Republics were recognised and met domestic political promises that recognition would come before Christmas. It also reflected concern about the possibility of Badinter reporting unfavourably on Croatia due to its weak position on the protection of minority rights.<sup>94</sup> This was significant. The biggest obstacle in Croatia's path was *not* that its government was not in control of a third of the territory of the Republic. The classic principles of statehood were not being fulfilled by Croatia and yet these were entirely outside Badinter's terms of reference.<sup>95</sup>

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90 Judy Dempsey and Laura Silber, "EC Unwittingly Fans the Flame of Yugoslav Conflict," *The Financial Times*, 23 Dec. 1991.

91 Ibid.

92 Eyal, *Europe and Yugoslavia*, 49.

93 Ibid., 47-48.

94 German recognition followed a new Croatian draft law on the protection of minority rights. Germany's decision meant that regardless of Badinter's report, the need for European unity would probably see Croatia through. Ibid., 47, 50.

95 Ibid., 77.



Badinter did find against Croatia's recognition on the grounds of inadequate minority rights protection, threatening a crisis for the Community's unity and for its clearly preferred policy line. He also recommended against recognising Bosnia-Herzegovina because of the lack of a clear democratic mandate for independence. Badinter called for modifications to the Croat constitution to increase protection for the Serb minority and for a referendum in Bosnia.<sup>96</sup> Promises of the former secured recognition, the latter was disastrous.

The Bosnian government immediately promised to hold such a vote, setting it for 29th February and 1st March, 1992. Thus, six weeks of intense political activity and division were guaranteed as the Serbs did everything possible to ensure the vote could be discredited by a boycott, if not stopped altogether. It also gave them time to prepare their forces to announce their own secession in order to remain within Yugoslavia when the Croat and Muslim populations inevitably voted for independence, creating the simple numerical majority the EC was looking for. War was guaranteed.<sup>97</sup>

In Macedonia, Badinter's reports were further discredited. With Croatia recognised despite his opposition, Macedonia was not recognised despite his support.<sup>98</sup> Greece objected to the use of the name of its northern province, because, according to the Greeks, it implied a territorial claim against the province, thus invoking the principle of the inviolability of frontiers, something already crucial to the crisis and a point of

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96 A detailed account of the remit, procedures and decisions of the Badinter Commission can be found in Weller, "The International Response to the Dissolution of the SFRY," 587-596. Also Gow and Freedman, "Intervention in a Fragmenting State," 125-126.

97 Eyal, *Europe and Yugoslavia*, 61.

98 Gow and Freedman, "Intervention in a Fragmenting State," 126-127.

reference for EC policy. With the Community having sacrificed Badinter's views on Croatia at the altar of unity, the Greeks were able to secure the non-recognition of Macedonia until such time as the dispute was settled, despite the desire of the other eleven member states to see Macedonia recognised.<sup>99</sup> In both cases the pragmatic needs of the EC to maintain a unified foreign policy stance overcame the needs of the situation in the former-Yugoslavia.

The recognition of Slovenia was merely the acceptance of established fact. The recognition of Croatia was part of an ongoing, now UN-led, effort to establish a durable cease-fire and secure the deployment of a peacekeeping force. The cease-fire negotiated by UN special envoy Cyrus Vance in early January was generally holding and the UN was making preparations for a deployment. Recognition aided this process by finally giving both sides in Croatia a reason to accept and implement a cease-fire.<sup>100</sup> Croatia's victim strategy could pay no more dividends so there was no reason to continue to incite Serb violence to gain recognition.

These examples help explain the importance to the recognition decisions of states-systemic ideas on order. Croatia was at least in part recognised to help secure a cease-fire, bringing some stability to the situation and signifying the insistence on the sanctity of borders. Macedonia was not recognised because of Greek obstruction officially justified on the basis of territorial integrity. This produced a powerful argument, even if it can be seen as largely disingenuous.

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99 Eyal, *Europe and Yugoslavia*, 49.

100 Gow and Freedman, "Intervention in a Fragmenting State," 124-125.

For the Serbs, the deployment of UN forces along the front-line in Croatia offered the hope of freezing their gains, protecting them from increasingly effective Croat military action and, perhaps, creating a *de facto* situation in which the front-line may become a border.<sup>101</sup> The Serb government and the JNA were also looking to Bosnia and the need to support the Bosnian Serbs and secure northern Bosnia in an effort to link up their enclaves in Croatia and establish secure communication lines. Therefore, the military logic for the Serbs also supported the idea of letting the UN police the line in Croatia.<sup>102</sup>

Bosnia's referendum duly took place, and was duly boycotted by the Serbs. It returned the numerical majority in favour of independence the Muslims and Croats were able to provide.<sup>103</sup> The fighting intensified amid Serb declarations of independence.<sup>104</sup> Recognition was granted by the EC on April 6th, with the US recognising Croatia, Slovenia and Bosnia the following day. In this case hopes were much weaker that recognition would stabilise the situation, with the help of a UN force, and would grant some protection to Bosnia's borders. The measure, in many ways, reflected an absence of ideas about how to deal with an extremely complicated and highly charged situation for which precious little planning appears to have taken place, despite months of warnings about a potential disaster. The principles of the inviolability of borders, the unacceptability of anything other than their peacefully negotiated movement and the illegality of the use of force were again emphasised in

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101 Serb hopes of this were to be shattered by the successful Croat invasion of Krajina in July 1995.

102 Eyal, *Europe and Yugoslavia*, 59.

103 Laura Silber, "Bosnia Holds Crucial Independence Vote," *The Financial Times*, 29 Feb. - 1 March 1992. Foreign Staff, "Bosnia's Ethnic Leaders Appeal for Peace," *The Financial Times*, 6 April 1992.

104 This immediately followed Bosnia's decision to apply for recognition. Judy Dempsey and Laura Silber, "EC Unwittingly Fans the Flame of Yugoslav Conflict," *The Financial Times*, 23 Dec. 1991.



the hope they might grant a little protection to Bosnia.<sup>105</sup> Recognition created the incentive to fight in Bosnia, rather than the incentive to maintain a cease-fire as it had in Croatia.

This narrative helps to understand how the EC and others found their choices constrained by the states-system. The insistence at the CSCE and the UN on classic principles of non-intervention and territorial integrity may have contributed to their marginalisation as leading players in the Yugoslav crisis, but their approval was important to the EC because they mandated a non-traditional foreign policy actor acting in non-traditional ways. This support also limited the EC, requiring it to try and use states-systemic mechanisms such as insisting on the unacceptability of the forcible moving of borders, even internal federal borders, as part of its efforts to put together the basis for a negotiated settlement. Secessionism and national self-determination were treated with great caution and acute awareness of the implications and precedents that could emerge from Yugoslavia.

Overwhelmingly, the goal of order, rather than a necessity to follow existing custom and practice, and thus the legitimacy of the states-system provides the key to why these sorts of choices had to be made. Order was the goal of the EC throughout these twenty-eight months, first by trying to promote the transformation of Yugoslavia and then containing the conflict within its borders. This is a constant theme, especially once fighting had begun in earnest after the Croat and Slovene declarations of independence.

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105 Buchan, *Europe: the Strange Superpower*, 78. Eyal, *Europe and Yugoslavia*, 63-64.

This basic structure informs specific policy choices. Carrington's 'mini-EC' proposals were about re-ordering the federation into a confederation in the hope of establishing the basis for a return to negotiation and orderly diplomatic relations between the Republics turned states. Recognition of Croatia can be seen as an effort to establish order by strengthening the delicate UN-negotiated cease-fire and creating the space for the deployment of peace-keepers to try and freeze the lines and create some stability whilst negotiations could continue. The insistence on retaining the position of borders is also a choice in the interests of order, both within Yugoslavia because of the risk of opening a can of worms on border re-negotiation, and in wider terms because of the importance of the principle to international order.

As well as these efforts to fit into existing custom and practice, innovations such as the Badinter Commission are also more explicable after an appreciation of the constraints of order. With the Community's unity under threat, and with it international efforts to contain and mitigate the fighting, recognition had the potential to support a much sought-after cease-fire. Slovenia was also clearly deserving of recognition and the need to implement threats made against Serbia meant some sort of mechanism had to be created. Badinter provided this and served the purpose of cloaking the political needs of the EC and the situation in Yugoslavia in the mantle of a semi-independent, semi-judicial procedure.

His criteria are most notable for their focus on the domestic arrangements of the states seeking recognition, but they also included states-systemic elements of order such as the acceptance of existing borders. Also, the type of states to succeed Yugoslavia was perceived by the EC as important to the likelihood of achieving order in Yugoslavia.

With Serbia identified as the principal problem and Slovenia looking like a West European state willing to play by the rules, the EC was not surprisingly keen to back forces within the emerging states that would take them in the Slovene direction, rather than down the Serb path of aggressive ethno-nationalism. Therefore, Badinter, rather than being an international legal anomaly and radical departure from law, custom and practice, can instead be seen as a choice which aimed at the goal of order and treated the mechanisms and procedures of the states-system as being a flexible set of tools for achieving that goal and things which should not stifle innovation where appropriate.

### 6.3 The international response and the legitimacy of liberal political ideas

The need for the EC to legitimise action by promoting liberal political values and forms was not only the result of the climate of legitimacy, but also a conscious political choice.<sup>106</sup> Six main themes characterise this aspect of the international efforts to manage the collapse of Yugoslavia.

1. Self-determination, as a corollary of popular sovereignty, was a central issue in the crisis with Germany leading the pressure for acceptance of popular electoral mandates in the face of Serbian, US, British, French and Soviet insistence on the anti-secessionist interpretation agreed during de-colonisation.
2. The need to reconcile positions on self-determination and territorial integrity underpinned the consistent demand, until December 1991, for unity and democracy in Yugoslavia.

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<sup>106</sup> See above, 5.3.2 for developments in the EC as a foreign policy actor.



3. Stress was laid on the importance of democracy, human rights and ideals of liberal government: constitutional limitation, popular accountability and maximum liberty commensurate with its equitable distribution.
4. This contributed to the sense of a breaking down of the domestic-international divide. The internal political organisation of Yugoslavia and of its federal units became a matter for international concern and, later, for efforts at prescription by external actors.
5. The problems and dilemmas of liberalism and nationalism plagued all efforts to deal with the crisis. The powerfully exclusive ethno-nationalism that ravaged Yugoslavia, often with electoral support, made it extremely difficult for Western governments attempting to promote accommodation, tolerance, respect for rights, dialogue and reason.
6. The EC consistently pushed its liberal political line and stressed throughout the need to promote democracy, even in the face of the most brutal, inhuman and barbarous military actions. Realist cynicism about the place of 'morality' in the conduct of international politics never completely dominated policy-making.

### 6.3.1 January 1990 - 25th June 1991

The states-systemic norms of unity, territorial integrity and the inviolability of borders were strongly emphasised by all external actors in the run up to the declarations of independence by Croatia and Slovenia at the end of June 1991. However, within this policy the EC in particular stressed the need for democratic reform on an all-Yugoslav basis. This meant backing a national political actor.<sup>107</sup>

The main hope was Prime Minister Ante Markovic as the head of the only all-Yugoslav political party following the collapse of the League of Communists of Yugoslavia.<sup>108</sup> This made Markovic the only politician of national standing opposed to the nationalist and particularist forces driving the Republican political parties that otherwise dominated the scene. Backing Markovic was the only hope for a negotiated settlement of inter-Republican disputes that did not threaten to establish a set of authoritarian, nationalist Republics. Markovic was described as believing in the power of reason over the emotional appeal of nationalism, adding to his attraction to those seeking to promote a liberal solution to Yugoslavia's political problems.<sup>109</sup> Reports of plots by Croatia and Serbia to overthrow Markovic only added to the distaste of the EC for the Republican leaders and to Markovic's assertions that

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107 The visit led by Jacques Poos of Luxembourg in April emphasised democracy. Eyal, *Europe and Yugoslavia*, 8. Delors' and Santer's visit in late May 1991 included pressure for federal elections. David Gardner and Laura Silber, "Brussels Warning to Yugoslavs on Aid," *The Financial Times*, 21 May 1991. Also David Buchan, "EC Takes Cautious Line on Yugoslavia," *The Financial Times*, 29 May 1991.

108 Judy Dempsey, "The Centre Slowly Loses its Hold," *The Financial Times*, 19 Dec. 1990.

109 Ibid. President Bush described Markovic as a, "courageous reformer." Also, Judy Dempsey, "Markovic Backed," *The Financial Times*, 30-31 March 1991.

support for his reform programme and for a re-negotiated federation would lead to eventual integration with the EC.<sup>110</sup>

These hopes for the creation of a genuinely national democratic political party proved to be groundless as the swell of nationalism swept away Markovic, his economic reforms, his promise of an all-Yugoslav approach to the solution of Yugoslavia's problems and his efforts to hold the country together.<sup>111</sup> In the six months before the independence declarations, the Croat and Slovene referendums in favour of independence, the Serbian plunder of the central bank<sup>112</sup> and the bitter and deadlocked inter-Republican talks on the future of the Federation made Markovic an increasingly marginal figure.

Other representatives of unity lacked Markovic's democratic aspirations. The Federal Presidency was seen as an anachronism by Slovenia especially. The Croats were also deeply suspicious of this institution, their interest being maintained only by the rotation of its leadership to Stipe Mesic, the Croatian government's representative, due in May 1991. As the representative of an elected government, his assumption of that role was regarded as important by external actors.<sup>113</sup> This was tempered by

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110 Judy Dempsey, "Yugoslav Premier Claims Western Support for Reforms," *The Financial Times*, 16 April 1991.

111 For an account of this period see Cohen, *Broken Bonds*, 163-219.

112 "No Such Thing as a Free Dinar," *The Economist*, 12 Jan. 1991, 48.

113 The US began pressuring the Yugoslavs to ensure Mesic's assumption of the Presidency in late May. The EC followed suit as it became clear that Serbia and her allies on the Presidency were prepared to block the rotation of Mesic. Eyal, *Europe and Yugoslavia*, 12. Also Judy Dempsey, Nancy Dunne and Laura Silber, "US Presses Yugoslavia on Presidency," *The Financial Times*, 22 May 1991. Also David Buchan, "EC Takes Cautious Line on Yugoslavia," *The Financial Times*, 29 May 1991.



Mesic's view of his mission as presiding over the dismantling of the country, undermining the primary goal of Yugoslav unity.<sup>114</sup>

Mesic, however, was preferable to the JNA, the only other symbol of Yugoslav unity, and his assumption of the Presidency was desirable in part because of the Presidency's position as constitutional Commander-in-Chief of the armed forces. Unity may have been extremely desirable, but the prospect of a military coup and the establishment of a *junta* was not something the EC or others could countenance in the 'new Europe'. There was also justifiable concern at the level of Serb nationalism within the predominantly Serb ranks of the army.<sup>115</sup> Whilst pro-Yugoslav unity sentiments were much more pronounced at the top of the military hierarchy,<sup>116</sup> there were also signs of pro-Serb sentiment there, linked to Milosevic's strongly pro-unity stance in the negotiations on a new constitution.<sup>117</sup> A military crack-down appeared a real possibility, even receiving some support in the Western press if it would successfully disarm the nationalist militias and restore order whilst constitutional negotiations took place.<sup>118</sup> This reflected a widespread and erroneous belief in the neutrality of the JNA, even as late as May 1991.

US concern during 1990 focused on the human rights situation in Kosovo and, as the electoral process continued, there were calls for aid to be targeted on those Republics

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114 Eyal *Europe and Yugoslavia*, 12.

115 James Gow, *Legitimacy and the Military: the Yugoslav Crisis* (London: Pinter, 1992). Marko Milivojevic, "The Political Role of the Yugoslav People's Army," in *Yugoslavia's Security Dilemmas: Armed Forces, Defence and Foreign Policy*, ed. Marko Milivojevic, et al. (Oxford: Berg, 1988).

116 Cohen, *Broken Bonds*, 181-182.

117 In mid-May the Army Chief of Staff, General Blagoje Adzic, began openly threatening Croatia with military action if it attempted to secede. Eyal, *Europe and Yugoslavia*, 9.

118 Editorial, "An Agenda for Yugoslavia," *The Financial Times*, 8 May 1991.

moving furthest in the liberal direction. Markovic received backing as part of this process and because of his programme of economic reform.<sup>119</sup>

The emphasis placed by the West on the election of governments meant it was in a weak position when dealing with the Yugoslav Republican authorities, all of which could claim the legitimacy of election, even where those elections had been manipulated, as in Serbia. The Croats and Slovenes could add the massive support for independence in referendums to these claims. The EC could not simply ignore such powerful electoral statements even when linked to exclusive, ethno-nationalist projects. The dilemmas and potential contradictions for those promoting liberal political ideas and forms, with their cosmopolitan basis, were acute when dealing with exclusive ethno-nationalists able to demonstrate popular support, especially via important liberal political institutions like elections. The difficulties of this situation were to prove deeply damaging to Western management of the crisis.

The understanding of an orthodox Western model of legitimacy enables us to appreciate the constraints on Western policy and to link the problems created back to liberalism's individualism and the need to respect all forms of identity, even when they are collective and exclusive and may not reciprocate such respect.<sup>120</sup> Yugoslavia was an area characterised by powerful ethno-nationalism with its stress on the value of the individual being the result of membership of the community. This led to those

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119 For press coverage of US policy in these areas see Marlise Simons, "Yugoslavia on the Brink," *New York Times*, 24 Jan. 1990, sec. A. Editorial, "One Yugoslavia or Six?" *New York Times*, 31 Jan. 1990, sec. A. Associated Press, "Five Kosovo Province Officials Quit, Citing Serbian Pressure," *New York Times*, 12 April 1990, sec. A. Thomas L Friedman, "24-Nation Group Expands Aid Plan in Eastern Europe," *New York Times*, 5 July 1990, sec. A. Associated Press, "Albanian Protest Broken Up in Yugoslavia," *New York Times*, 30 Aug. 1990, sec. A. Editorial, "Help Yugoslavia Look Forward," *New York Times*, 31 Oct. 1990, sec. A. Editorial, "How Yugoslavia Can Hang Together," *New York Times*, 3 Dec. 1990, sec. A. Bob Dole, "Uneven Progress," *New York Times*, 3 Dec. 1990, sec. A.

120 See above, 2.5.



outside the family-like idea of the nation being denied the rights liberalism regards as inherent in being human, whilst those trying to operate within a liberally influenced framework were constrained to accept and respect such forms of identity. In its extreme form these identities manifested themselves in the brutality of 'ethnic cleansing' and more moderately in Tudjman's sacking of Serbs from government jobs and the draft Croatian constitution's tendency to deny rights to non-Croats.

Sovereignty and the liberal belief in self-government combined with elections leading to ethno-nationalist governments claiming the defence of non-intervention. Liberally important ideas of equitable freedom, constitutionally limited government and civil rights were consequently very difficult for the EC to promote and protect. The liberal political ideal of civic-territorial nationalism and hopes about its emergence across an Eastern Europe expressing the desire to move closer to the EC, notable for its ability to operate whilst containing many different identities, also meant exclusive ethno-nationalists were able to shelter repression of national minorities behind the cover of the electoral will of the majority.

For the EC trying to promote democracy and unity the problems were exacerbated by Yugoslavia's weak democratic tradition combined with the power of its ethno-nationalist resurgence to create elected nationalist dictatorships in Croatia and Serbia in particular. The feebleness of central institutions ensured the exclusive nationalism in Yugoslavia's Republics could not be countered by an effort to create a sense of unity and the need to pursue the Titoist ideal of Brotherhood and Unity. That such 'unity in diversity' policies which could have been a source for a civic-territorial national identity were heavily contaminated with the Communist past added to the impossibility of reforming them, especially in the eyes of Slovenia and Croatia who



feared the barely reconstructed Communism of Serbia and its government's wish to re-establish a strong central government.<sup>121</sup> In such circumstances, appeals for unity and democracy were likely to fail because the two concepts had become mutually exclusive.<sup>122</sup>

The particular circumstances of Yugoslavia seem to have been little understood by the governments of the EC<sup>123</sup> or more widely among the leaders of public opinion pressing for action to keep Yugoslavia together.<sup>124</sup> The EC's policies for helping Yugoslavia stay together were the same as those being used to help transform the other countries of Central and Eastern Europe from Communism to capitalism. These were particularly designed for Poland, Hungary and Czechoslovakia, none of which was afflicted by the levels of nationalist turmoil plaguing Yugoslavia. The PHARE programme, Association Agreements, market access arrangements, offers of future integration with the EC's political and economic activities played on the kind of rational, calm calculation which characterises much of the liberal approach to society, and especially to economics.<sup>125</sup> Similar pressure from the US for economic reform and support for political change is reflected in the Op-Ed pages of the New York Times. Quiet diplomacy, resolute statements of principle and economic carrots and sticks

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121 See above, chapter 4.

122 Gow and Freedman, "Intervention in a Fragmenting State," 99.

123 The author was told that a single Dutch civil servant was given a month off to read up on Yugoslavia in order to advise Hans van den Broek, President of the EC Council of Ministers and leader of the EC's peace efforts during the crucial period from July 1991 to January 1992.

124 For a particularly good example of this see Samuel Brittan, "Federation: Bottom-Up Better than Top-Down," *The Financial Times*, 8 July 1991 in which he advocates the creation of a strongly de-centralised federation to give people a sense of control over the important things in their everyday lives, leaving central government to deal with defence, foreign affairs and certain aspects of monetary policy, a situation very similar to that existing in Yugoslavia. His faith in the power of economic liberalism to counter nationalism is also symbolic of the faith in reason and cold economic logic to overcome nationalism.

125 See Eyal, *Europe and Yugoslavia*, 1-22. Also Buchan, *Europe: the Strange Superpower*, 69.

were the recommended instruments in what seems to have been regarded as a relatively unimportant crisis.<sup>126</sup> The idea of the US having a strategic interest in Yugoslavia was dismissed.<sup>127</sup>

Therefore, promoting liberal political ideals in Yugoslavia was always going to be difficult. For some, the ideal of a West European civic-territorial identity allowing for tolerance and respect for universal human rights was the goal. For others, liberalism gave them a mandate to pursue a popular mood of ethno-nationalist intolerance. The dilemma for the West was its inability to make sustainable distinctions between the two because of its stress on the institution of elections and the contradictions within the liberal treatment of nationalism which make a liberal legitimization of ethno-nationalism possible. The West could not deny the legitimacy of electoral mandates and national identities whose political consequences they so deplored.

Chapter 4 showed the limited ability of the orthodox Western model of legitimacy and its ideal of civic-territorial nationalism to penetrate into the legitimacy vacuum which opened in Yugoslavia during the 1980s in the face of an alternative, locally specific set of legitimising values based on ethno-nationalism. Secession and war were to make conditions for promoting the liberal political parts of the model even less favourable, despite the best efforts of the EC.

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126 Editorials between January 1990 and June 25th 1991 include: "One Yugoslavia or Six?" *New York Times*, 31 Jan. 1990, sec. A. "Help Yugoslavia Look Forward," *New York Times*, 31 Oct. 1991, sec. A. "How Yugoslavia Can Hang Together," *New York Times*, 3 Dec. 1990, sec. A. "Divorce, Yugoslav Style," *New York Times*, 22 Feb. 1991, sec. A. "Hope in the Streets of Belgrade," *New York Times*, 15 March 1991, sec. A. "Yugoslavia Loses Its Hold," *New York Times*, 16 May 1991, sec. A. The scarcity of coverage is perhaps indicative of the level of US official involvement.

127 "America no longer has a strategic interest in Yugoslavia." Editorial, "Yugoslavia Loses Its Hold," *New York Times*, 16 May 1991, sec. A.



6.3.2 25th June 1991-7th April 1992

The declarations of independence and the outbreak of fighting in Slovenia threw the EC's insistence on unity into doubt. This was principally because of the way the forces for unity reacted. Markovic was increasingly obviously irrelevant,<sup>128</sup> and the JNA's pro-Serb stance became steadily more open during the fighting in Croatia. On July 5th, the Chief of Staff, General Blagoje Adzic, told all "non-Yugoslav-oriented" officers to leave, effectively asking for the resignation of all those who opposed Serbia and Montenegro's plans for a re-centralised federation.<sup>129</sup> The EC's hopes disappeared for a re-negotiated constitution on the basis of unity, democracy and support for Markovic, his all Yugoslav political party and the neutral backing of the JNA.

This did not stop the EC continuing to pursue these policies consistently until December. Instead of internal political actors providing the conditions under which unity and democracy could be created, the EC set about doing this itself, backed by the US, CSCE and the UN, institutions with strong interests in minimising the dangers of a precedent for secession.<sup>130</sup>

This central issue for the legitimacy of liberal political ideas shifted to the creation of a set of institutions enabling the EC to square the Yugoslav circle by accommodating

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128 This process was completed during the fighting in Croatia. Cohen quotes a dramatic meeting in September when Markovic asked for the resignation of the Federal Defence Minister, General Kadijevic, and the Army Chief of Staff and Deputy Defence Minister, General Adzic. Both refused. Markovic eventually resigned in December when the proposed new federal budget allocated 86% of government spending to the JNA to help it fight the war. Cohen, *Broken Bonds*, 226-228.

129 Ibid., 226.

130 See Weller, "The International Response to the Dissolution of the SFRY," 570-584.



the competing claims of self-determination and territorial integrity and unity. The borders of Yugoslavia had to be preserved in the interests of order, but the claims to self-determination of the Republics and the Serb minorities within Bosnia and Croatia also had to be addressed. The needs of democracy, in the form of the power of an electoral mandate, had to be served. The constraints of the states-system and order on one hand and liberal political ideas and cosmopolitan democracy on the other hand had to be made to coincide, with the mixture made more complex by the inclusion of ethno-nationalism, helping us understand the difficulties under which the EC was trying to operate.

This tension between the needs of stability and the needs of democracy lies behind many of the difficulties faced by efforts to create a framework for a comprehensive political solution. This was not simply an inevitable product of the climate of legitimacy in international relations, but also the result of the EC's deliberate efforts to move the climate in the direction of liberalism.<sup>131</sup> The wider agenda of the European security 'architecture' and the role of the EC in the world meant these needs could not be ignored. The EC had to maintain unity itself, as well as trying to maintain the unity of Yugoslavia. It needed to be seen to fulfil the high hopes of the Paris Charter and the promotion of the humanitarian aspects of the Helsinki Final Act. The EC was struggling to be a new kind of actor, "The strange Superpower," as David Buchan calls it, in a new kind of Europe.<sup>132</sup> Its success in containing, moderating, reconciling, yet maintaining different national identities so that political leaders could think in European terms without betraying the national interest tended to make it

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<sup>131</sup> See above, 5.3.2.

<sup>132</sup> Buchan, *Europe: the Strange Superpower*.

assume others would see things similarly. Unfortunately, its most immediate challenge was the classic stuff of power politics.

The problems of trying to reconcile the requirements of operating within the overlap of states-systemic and liberal political ideals, a deliberate choice by the EC, come through in the Carrington Commission's proposals following Milosevic's acceptance of the secession of Croatia at the start of October. These proposals essentially allowed for the creation of a new Yugoslavia modelled on the EC, with particular attention given to issues of minority rights and autonomy including a central court of appeal charged especially with the defence of those rights.<sup>133</sup> In this can be seen traces of hopes nurtured in the peaceful development of democracy in Western Europe and their role in preventing a war between its two main antagonists, France and Germany. Perhaps it could do the same in the Balkans. It was also a proposal the Slovenes, the Republic most closely in tune with the Western orthodox model of legitimacy, had championed in the past.<sup>134</sup> They had managed to gain the acceptance of all the Republics except Serbia which rejected it as an intervention in its domestic affairs and too weak to properly protect the interests of Serbs in other Republics, something they argued required an all-inclusive Serb homeland.<sup>135</sup>

The plan to create a 'Balkan EC' also offered as much as the EC and others could accept in the way of political rights on the basis of the claim to self-determination. It stopped short of sanctioning secession, especially for the sub-republican groups, but

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133 Gow and Freedman, "Intervention in a Fragmenting State," 119-120. David Buchan, "Copy Us, EC Tells Warring Yugoslavs," *The Financial Times*, 19-20 Nov. 1991.

134 Bogomil Ferfila, "Yugoslavia: Confederation or Disintegration?" *Problems of Communism* 40 (1991).

135 David Buchan, "Copy Us, EC Tells Warring Yugoslavs," *The Financial Times*, 19-20 Nov. 1991.

did not hand them over entirely to the not so tender mercies of completely independent governments. The idea of self-determination as the right to exercise political autonomy and to have the nation's identity preserved and protected lay behind the proposed settlement.<sup>136</sup>

It was not enough for those fearing for their future and demanding the only real protection - sovereignty - which they regarded as the fulfilment of their national identity. Whilst rejection of the proposals was left to Serbia, on the grounds that it did not adequately protect the rights of Serbs outside Serbia,<sup>137</sup> the Croatian government was not particularly keen on the proposal because it compromised its claims to sovereignty and granted more recognition to the right to self-determination of minorities within states than the Croatian government was prepared to concede.<sup>138</sup> A Croat government could accept no limits on its ability to protect and promote Croatian interests even where these trampled on the rights of others. Also, being seen to co-operate with the EC's plans, safe in the knowledge Serbia would reject them, increased the pressure to recognise Croatia as reward for its constructive attitude and to increase the protection for its borders by internationalising the crisis. German and Austrian policies and statements encouraged the Croats in this.<sup>139</sup>

With the failure of the October breakthrough to solidify into a comprehensive political settlement in the face of intense fighting, especially around Dubrovnik and

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136 Koskenniemi, "National Self-Determination," 248 where he makes reference to the International Covenant on Civil and Political Rights, Article 27.

137 Laura Silber, "Serbs Close Ranks Against EC Constitutional Plan," *The Financial Times*, 22 Oct. 1991.

138 Tudjman denied the right of any minority to self-determination within a sovereign state. Cohen, *Broken Bonds*, 275.

139 Ibid., 233.



Vukovar, the EC's exasperation with the Serbs meant it imposed economic sanctions, abandoning its stance of neutrality and handing over the efforts to arrange a cease-fire to the UN. This enabled it to concentrate on promoting its favoured political solution and working out the conditions under which Croatia and Slovenia should be recognised. This was partly a response to growing public pressure for decisive action and support for 'democratic', 'self-determining' Croatia and Slovenia.<sup>140</sup> It was also a genuine belief on the part of the German government especially that recognition and support for democracy and self-determination was the best way to deal with the crisis.<sup>141</sup>

The strongest example of the need to constrain sovereignty in the interests of liberal political ideals is the Badinter Commission's criteria for recognition.<sup>142</sup> The dividing line between the domestic and international aspects of statehood was almost completely dissolved. No mention was made of the need for the state to have clearly defined borders (merely to agree to support the existing, Republican borders), a settled population, or a government able to administer the territory within the defined borders and able to enter into diplomatic relations. Instead, the focus shifted to the expression of popular will for secession, the electoral mandate of the government and its commitment to the protection of the rights of individuals and groups within its territory. The 'domestic' character and actions of the government were the principal standard for judging statehood. This only served to further the sense within the Republican governments that they embodied the state and its rights to sovereignty.

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140 For an analysis of European public opinion over the dissolution of Yugoslavia see *ibid.*, 230-231.

141 Eyal comments on the way that everybody attempted to ascertain the 'real' reasons for German policy, rather than accepting the most simple proposition that the German government believed its preferred course of action was the right one. Eyal, *Europe and Yugoslavia*, 48-49.

142 See Weller, "The International Response to the Dissolution of the SFRY," 587-588.

The EC hoped it would be able to garner legitimacy for what was an about-turn on Yugoslav unity by pointing to the 'better' states it was bringing into existence by insisting on criteria for recognition which focused on liberal political ideas and institutions.<sup>143</sup>

The Badinter Commission had another purpose, linked to the EC's own political agenda. These criteria served the purpose of maintaining unity in the face of German threats of unilateral action as well as enabling the EC to claim it was extending democracy and liberal government to the Balkans. The wider needs of the EC's foreign policy role and the hopes of a new form of politics in Europe were served, no matter how thin the veneer over the cracks, uncertainties and inadequacies of EC policy.<sup>144</sup> The major difficulty of this approach, which the EC tried to ignore, was the way its criteria on elections and popular mandates were fulfilled by governments of an ethno-nationalist nature who would gain from the protections of statehood.

The cracks in EC-unity were re-opened by Badinter's reports in favour of recognising Slovenia and Macedonia, but against Bosnia and Croatia. With Germany having already recognised Croatia, the needs of EC unity, in order to protect its prestige as an international actor, meant Tudjman's promises to deal with Badinter's concerns over minority rights had to be accepted at face value and recognition granted.<sup>145</sup> Macedonia was denied recognition to assuage Greece and maintain EC unity and its recently stated aspirations in the Maastricht Treaty to become a more effective foreign policy actor. Greek objections rested in part on their own failure to fulfil Badinter's

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143 Eyal, *Europe and Yugoslavia*, 47.

144 Ibid., Also, Buchan, *Europe: the Strange Superpower*, 77.

145 Eyal, *Europe and Yugoslavia*, 49. Gow and Freedman, "Intervention in a Fragmenting State," 126.

standards on the protection of minority rights.<sup>146</sup> Realist, states-systemic concerns about the EC's effectiveness in broader foreign policy matters were allowed to override the principally liberal remit Badinter had been given. Greek objections should, and could, have been over-ruled, with the other eleven EC states recognising Macedonia.<sup>147</sup> However, having struggled to come this far as one the EC decided it was important to retain its credibility as a unified foreign policy actor by sticking together on this issue as well. The Greeks were able to point to the principle of the inviolability of borders and their fears of implicit territorial claims in the name Macedonia as good reasons to block the application. This was a much more traditional, states-systemic use of the inviolability of borders than the liberally modified way it was being used to protect Croatia and Slovenia.

The only area where Badinter's remit was respected was the demand for a referendum on independence in Bosnia, a move setting the Republic on an irrevocable path to war, especially given the total lack of precautionary measures taken by international actors to try and calm an extremely tense situation.<sup>148</sup> Bosnia as a state lacked the support of much of its Serb population, and many Croats regarded it as a temporary way to escape a Serb-dominated Yugoslavia before joining Croatia. Therefore, the hopes of protecting and nurturing a state embodying a multi-ethnic identity, a civic-territorial nationalism, were doomed. The ethno-nationalist forces in Bosnia were too strong, the idea of national destiny and interest being fulfilled solely by creation of exclusive national homelands was too powerful by this time. A significant part of the population saw their sovereignty as being elsewhere. The basis for the type of state

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146 Gow and Freedman, "Intervention in a Fragmenting State," 126.

147 Ibid.

148 Ibid., 127.



the EC was hoping to create was absent, yet the EC tried to create it by *diktat*. The tragedy for the many people in Bosnia who believed in a multi-ethnic state was that they were given the opportunity to create it at a time when the chances of success were slimmest, in the middle of a bitter, ethno-nationalist war.

Recognition for Bosnia, following its referendum, was more a formality than anything else and a sign of the sense of hopelessness that rapidly overtook EC policy-making. The Portuguese, who took over the Presidency of the Council of Ministers on 1st January 1992, made it clear they regarded Yugoslavia as a secondary issue, robbing the Community of the involvement and leadership shown by the Dutch under van den Broek.<sup>149</sup> Recognition was a last effort to try and protect Bosnia's borders and integrity in the face of Serb and Croat plans to carve up the country between them.

An understanding of the mess resulting from the Badinter Commission comes from an appreciation of the difficulties of reconciling the states-systemic and liberal political principles of the Western model of legitimacy in an ethno-nationalist environment. The refusal to consider moving borders and the claim to sovereignty of the Croatian government meant the ability of the international community to establish arrangements adequately safeguarding the Croatian Serbs was very much in doubt. With the monopoly of the legitimate use of force and the defence of the principle of non-intervention Tudjman was seeking, the Croatian Serbs were never going to trust promises made to or by the EC.<sup>150</sup>

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149 David Buchan and Laura Silber, "Lisbon Plays Down Recognition Issue," *The Financial Times*, 17 Jan. 1992.

150 The Croatian Serbs were not invited to attend the EC's peace conference until 8th October, by which time the fighting was intense and bitter. David Gardner and Reuters, "Serbia Accepts Croatian Independence," *The Financial Times*, 5-6 Oct. 1991. On 19th October, amid renewed heavy fighting, they reiterated their claim to independence on the basis of self-determination, dissatisfied with the EC's

In the ethno-nationalist atmosphere of Yugoslavia, the need to achieve sovereignty in order to establish and defend a homeland was paramount and a goal the EC could not reject because of the need to respect the identity of those involved and the popular support they could muster. The states-system's role in attaching the popular principle to simple majorities wakened the position of those trying to protect minority rights and to press for a form of self-determination which included protections for those outside the ethno-nationalist family. The states-system, the power of exclusive ethno-nationalism and the dilemmas within liberalism over nationalism placed the EC and others in an almost impossible position. The government of Croatia could claim the legitimacy of election and a pro-secession referendum, the Croatian Serbs could claim the legitimacy of a referendum among their own people, no matter how often the EC refused to accept its validity. Liberal political principles, as interpreted and altered through the lenses of nationalism and the states-system, helped to create the irreconcilable demands of the Yugoslav situation and to hamstring the efforts of the EC to manage the crisis and achieve the goals of unity and democracy.

#### 6.4 The international response and the legitimacy of liberal economics

This section will complete the narrative of the international, principally Western, response to the collapse of Yugoslavia. Moving to consider the issues and values contained in an economic liberal approach will hopefully point to questions and offer reasons not given in the existing literature on the collapse of Yugoslavia which concentrates on the politics of the crisis and the response.

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proposals for autonomy and constitutional guarantees. Eyal, *Europe and Yugoslavia*, 43. Laura Silber, "Divisions Emerge Among Serb Leaders Over New EC Proposals," *The Financial Times*, 1 Nov. 1991.

The Western response to the collapse of Yugoslavia demonstrates how liberal economic ideas effect policy choices, ways of approaching issues and modes of thought. The values of individualism, liberty, the belief in the power of the goal of economic development and the generation of wealth, the importance of trade and the centrality of rationality can be seen in policies aiming at goals like order, territorial integrity and a cease-fire. This calls into question the idea of a 'semi-detached' relationship between liberal economic principles and a central nexus of legitimacy based on the interaction of the states-system and liberal political ideas and forms.<sup>151</sup> This is despite the continuing problem of the cosmopolitan/communitarian divide between the two liberalisms and the states-system respectively.

Particularly highlighted by considering economic liberal aspects of the Western response is the desire to play the international game in a different manner.<sup>152</sup> Setting the agenda for a new type of politics in post-Cold War Europe with the EC as a new type of Great Power is an important part of the response to the collapse of Yugoslavia. Here is where the influence of liberal economics is greatest and where it provides a background refrain to understanding EC policy, especially when the Commission took a leading role during the first phase with its focus on encouraging reform. The overwhelmingly political nature of the crisis, with its focus on territory, power, self-determination and other classic political issues means it is necessary to search for the influence of liberal economics in policies aiming at states-systemic or politically liberal goals.

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<sup>151</sup> See above, 2.6.

<sup>152</sup> See above, 5.3.2.



Trying to achieve this suggests five main themes:

1. The use of trade and aid levers to persuade the Yugoslav parties to stay together and reform their political and economic systems.
2. Concentration on economic cures to primarily political problems.
3. Ultimately misplaced faith in the ability of economic rationality to overcome nationalism.
4. Faith in the effectiveness of economic sanctions to achieve goals.
5. Emphasis on rationality and the power of economic cost-benefit analysis to persuade the Yugoslav parties to agree to plans and demands.

#### 6.4.1 January 1990 - June 25th 1991

In the period up to the declarations of independence by Croatia and Slovenia EC policy was dominated by the use of economic policy levers in pursuit of unity and reform. The EC had been playing a leading role in the Yugoslav economy and backing Prime Minister Ante Markovic's reform efforts for some time, with US support.<sup>153</sup> Markovic was making great demands for aid to re-capitalise the banking system as part of his effort to counter inflation and restore the Dinar to stability. He was also appealing for soft loans to restore the government's finances and cushion the removal of price subsidies, import restrictions, and the effects of widespread privatisation.<sup>154</sup>

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153 David Buchan, "Yugoslavia to Sign IMF Restructuring Agreement," *The Financial Times*, 9 March 1990.

154 Ibid. Also David Buchan, "Boost for Loans to Yugoslavia," *The Financial Times*, 31 May 1990. Anatole Kaletsky, "OECD Concern on Yugoslav Economic Plan," *The Financial Times*, 20 June 1990. David Buchan, "EC Clears Loan for Yugoslavia," *The Financial Times*, 19 Dec. 1990.

Throughout 1990 Yugoslavia's success was measured by the EC in economic indices and on its ability to catch up with some of the rapid strides in reform being made elsewhere in Eastern Europe.<sup>155</sup> EC policy was constrained by the hopes and expectations for a transformation of Eastern Europe into a region of liberal economies. Therefore, Yugoslavia could not be allowed special treatment.

Unfortunately, the figures on the Yugoslav economy did not look good. The OECD produced a damning report on the state of the Yugoslav economy in mid-1990.

Industrial output was down 7%, consumer spending down 27%, unemployment was at 11% and rising, GNP was expected to fall by considerably more than the official estimate of 2%. The only bright spot was Markovic's success in cutting inflation from 28,000% at the end of 1989 to 4% a month via a temporary wage freeze and pegging the Dinar to the Deutschmark.<sup>156</sup>

Aid donors were asked for the biggest injection of assistance for any Eastern European country: \$500 million to re-capitalise the banking system and \$1 billion of aid over three years, a third of it on favourable terms from the EC. Donors were demanding acceptance of an IMF restructuring plan, i.e. liberalisation, as a condition.<sup>157</sup> During 1990 Yugoslavia's requests were largely granted.<sup>158</sup> This took place against a background of growing violence in the country and uncertainty about the future following the collapse of the League of Communists of Yugoslavia at the

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155 Editorial, "Pluralism in Yugoslavia," *The Financial Times*, 23 Jan. 1990.

156 Anatole Kaletsky, "OECD Concern on Yugoslav Economic Plan," *The Financial Times*, 20 June 1990.

157 David Buchan, "Yugoslavia to Sign IMF Restructuring Plan," *The Financial Times*, 9 March 1990.

158 David Buchan, "Boost for Loans to Yugoslavia," *The Financial Times*, 31 May 1990. David Buchan, "EC Clears Loan for Yugoslavia," *The Financial Times*, 19 Dec. 1990.

start of the year, especially as nationalist governments were returned in elections in the Republics.<sup>159</sup>

Markovic's economic reform plans were hampered by the declining power of the central authorities in Yugoslavia. Struggling for the consent of Republican governments and then fighting again to make sure they implemented changes became even harder than it had been in the 1980s. This became even more difficult as 1990's elections brought new governments to the Republics, or granted greater authority to the existing ones that were returned. With their ethno-nationalist character, these governments were interested in promoting the interests of the Republic rather than of Yugoslavia as a whole.<sup>160</sup> Thus, whilst Markovic was to receive some support from Slovenia and Croatia, who would benefit from greater access to international trade and from reduced subsidies to loss-making industry, his plans were opposed by Serbia and Montenegro in particular. Their opposition also reflected ideological hostility to Markovic's liberalisation of the Yugoslav economy as well as fear of the effects on their populations.<sup>161</sup> Because of the EC's belief in the ends and means of liberal economics Markovic remained the only acceptable partner.

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159 For contemporary press accounts see "The Morning After," *The Economist*, 27 Jan. 1990, 48. "Ireland in the Balkans," *The Economist*, 3 Feb. 1990. "Yugoseparatism," *The Economist*, 14 March 1990, 53-54. "Croatia's New Master," *The Economist*, 28 March 1990, 66. "Oh to be Swiss," *The Economist*, 30 June 1990, 63. "The Serbs Start to Play it Rough," *The Economist*, 25 Aug. 1990, 33-34. "War?" *The Economist*, 6 Oct. 1990. "Bust-Up in the Balkans," *The Economist*, 13 Oct. 1990, 19-20. "Against the Grain," *The Economist*, 15 Dec. 1990, 58.

160 Judy Dempsey, "The Centre Loses Its Hold," *The Financial Times*, 19 Dec. 1990.

161 For an account of Markovic's efforts to secure economic reform see Cohen, *Broken Bonds*, 66-73, 102-107, 163-180, 205-214.



The EC was in a unique position to influence the development of economic policy in Yugoslavia because it was responsible for 53% of Yugoslavia's international trade.<sup>162</sup> It was also a major aid donor and provider of soft loans. The EC used its economic clout to back Markovic and his reform plans, pressing for them to go further and cover liberalisation of the political system as well. This policy continued well into 1991, despite the growing evidence of an existential crisis for the country. Jacques Delors complained in late May the Yugoslavs were spending too much time worrying about nationalist disputes, rather than addressing the country's serious economic difficulties.<sup>163</sup>

This is indicative of the failure of the EC to appreciate the full scale of Yugoslavia's nationalist and political difficulties. They ignored the warning signs, despite the obvious effects they were having on EC efforts to negotiate a new package of loans for Markovic's government. Delors had to postpone a visit in early May because of the fear of an imminent military coup.<sup>164</sup> The Defence Minister, General Kadijevic, described the country as being in a state of civil war,<sup>165</sup> the constitutional negotiations were getting nowhere and violence spreading in Croatia.<sup>166</sup> Despite this, the EC, with US support, remained committed to its proposals to reform Yugoslavia on the basis of unity, democracy and a market economy.<sup>167</sup>

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162 David Buchan, "Yugoslav Aid Tied to Economic Reform," *The Financial Times*, 4 June 1991.

163 Ibid.

164 David Buchan, "EC Takes Cautious Line on Yugoslavia," *The Financial Times*, 29 May 1991.

165 Editorial, "An Agenda for Yugoslavia," *The Financial Times*, 8 May 1991.

166 Cohen, *Broken Bonds*, 195-214.

167 David Gardner and Laura Silber, "Brussels Warning to Yugoslavs on Aid," *The Financial Times*, 21 May 1991.

Our understanding of how trying to promote liberal economic ideas constrained policy is enhanced by considering further limitations created by the way Yugoslavia was seen as the first challenge for post-Cold War Europe. The way it was dealt with could set the pattern for future uncertainties and difficulties in Eastern Europe and the Soviet Union. Therefore, it was necessary to do it right and demonstrate how hopes for a new type of politics could be fulfilled. The Commission's international role was traditionally an economic one.<sup>168</sup> Its involvement in EPC and common foreign policy-making on an inter-governmental basis only having been formalised in the Single European Act.<sup>169</sup> With its eye on the upcoming Maastricht conference and the discussion of the EC's future foreign policy role, the Commission was keen to show how its belief in the power of rationality, reason and the unavoidable logic of the market and economic calculation could be deployed in pursuit of foreign policy goals. This agenda was later furthered by the enthusiastic involvement of the Dutch Presidency of the EC in the Yugoslav crisis at the same time as it was backing greater integration on foreign policy matters in the run up to Maastricht.

Specific policy choices are therefore more easily explained. Markovic was seen as the best hope for saving the 'right' kind of Yugoslavia; one that would catch up with progress being made by other post-Communist states of Eastern Europe, something EC officials pointed out to the Yugoslavs.<sup>170</sup> Yugoslavia was only one issue to be considered in the re-making of Eastern Europe and it could not be allowed to set

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168 Clive Archer and Fiona Butler, *The European Community: Structure and Process* (London: Pinter, 1992), 28.

169 Ibid., 172-173.

170 David Gardner and Laura Silber, "Brussels Warning to Yugoslavia on Aid," *The Financial Times*, 21 May 1991.

precedents in terms of special treatment from the EC as well as in terms of secession or a military crack-down.

For the other actors involved; the US, Soviet Union, UN and CSCE; the need to try and further the cause of liberal economics was much less pronounced. US trade and aid links with Yugoslavia were very small and the relationship between the two was traditionally characterised by geopolitical concerns. A review of this policy did not occur until after the fighting had started when the main issue was how to stop it and establish talks on a political settlement.<sup>171</sup> The US promised to release aid suspended under the Nickles Amendment to try to gain the rotation of Stipe Mesic to the Presidency and to back Markovic.<sup>172</sup> Hopes were also expressed that economic realities would bring the Croats and Slovenes to their senses about the problems of secession.<sup>173</sup> US actions were largely damage limitation exercises in pursuit of geopolitical stability rather than an effort to legitimise action by reference to the needs of liberal economics.

The Soviet Union was outside the consensus on the orthodox Western model of legitimacy and therefore economics played an inevitably marginal role. Also, turmoil throughout 1990 and 1991 precluded it from taking a strong line on Yugoslavia except on the principles of unity, territorial integrity and opposition to secession. This reflects the feared effects of Yugoslavia on itself and also probably represents a fall-back position resting on basic states-systemic principles during a time when political

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171 Rusinow, "Challenged Premises of US Policy in Southeastern Europe."

172 Judy Dempsey, Nancy Dunne and Laura Silber, "US Presses Yugoslavia on Presidency," *The Financial Times*, 22 May 1991.

173 "The Lookers-On," *The Economist*, 25 May 1991, 57.



attention in the Soviet Union was focused elsewhere. The CSCE and UN stuck to issues the organisations were competent to deal with, i.e. states-systemic ones. The presence of strong defenders of non-intervention in the Security Council, particularly China, and the Soviet Union in the CSCE also rendered liberal economic influences largely ineffectual.<sup>174</sup> However, the leading role adopted by the EC meant other parties were content with consultation on and affirmation of the EC's own agenda.

Therefore, policy in the two or three months immediately prior to the declarations of independence by Croatia and Slovenia shows how the West's use of economic policy levers shifted away from attempts to consolidate economic reform and towards the need to maintain Yugoslav unity in the interests of international peace and stability. Gaining liberal reforms, in both politics and economics, became a bonus, rather than the *raison d'être* for the use of aid and trade policies to pressure the Yugoslavs. Policy moved away from creating a liberal economic system because it was an intrinsically legitimate thing to try and do in international affairs, towards helping keep the country together, serving the needs of stability and order. When the Slovene finance minister suggested secession could result in a 20-30% drop in the standard of living it was taken as a sign of the growing awareness of how the cost of secession would dissuade the Slovenes, rather than being welcomed as an understanding of the needs for a unified and free market for the prosperity of the Yugoslav peoples.<sup>175</sup> Similar hopes were attached to the announcement that Croatia suffered a 29% drop in economic output in the first three months of 1991.<sup>176</sup>

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174 For a discussion of these issues in more detail see above, 6.2.

175 "Yugoslavia: Unclear Fission," *The Economist*, 22 June 1991, 53.

176 Eyal, *Europe and Yugoslavia*, 9.

6.4.2 25th June 1991 - 7th April 1992

Following the declarations of independence and the outbreak of fighting in Slovenia the need to deal with the immediate priority of establishing a cease-fire and beginning negotiations on a political settlement to the crisis meant economic issues became secondary. This did not mean the end of the use of economic levers for political goals, far from it, but the furtherance of liberal economics and the efforts to legitimise action by reference to such standards almost disappeared. Whilst “[t]he Croatian government ... was thought by some to have authoritarian tendencies, by others to be dithering and incompetent and by all to have shown little development in terms of free-market economics”<sup>177</sup> it was nevertheless negotiated with and granted some protection by the shift in position towards greater flexibility on the future of Yugoslavia.<sup>178</sup> In a war and with the potential stability of Eastern Europe at risk, the international community sought comfort in a more traditional approach to international politics than grand hopes for the spread of the free-market. Order, stability, the protections of borders and, something of a novelty, the protection of signs of liberal political ideas and structures, became the priority.

The signs of the continuing influence of the *mode of thinking* about international politics engendered by the liberal economic strand of legitimacy can be seen in the use of economic sanctions. Economic rationality could still halt the fighting if the cost of continuing with war could be made clear. Thus whilst sanctions are a tool of states-systemic power and influence, the faith displayed in them in Yugoslavia is indicative

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<sup>177</sup> Gow and Freedman, “Intervention in a Fragmenting State,” 98.

<sup>178</sup> See above, 6.2.2.

of a value system betraying economic liberal influence. Nationalism, it was hoped, could be overcome by the deployment of good enough economic arguments and strong enough pressure.<sup>179</sup> This proved a very optimistic approach. It is, however, indicative of the way liberal economic ideas have been able to establish an important role in legitimising action and hopes for post-Cold War Europe, where tribal hatreds and ancient ethnic quarrels, as the Yugoslav conflicts quickly became characterised, had no place.<sup>180</sup> These disparaging and usually rather condescending terms highlight the lack of understanding of Yugoslavia's problems and of the power of nationalism.

Arguments over the use to be made of the EC's economic leverage over Yugoslavia began almost immediately the JNA marched on Slovenia. Germany called for immediate suspension of the EC's \$1 billion aid programme but Britain, France, Spain and Italy argued that suspension could be more effective later.<sup>181</sup> However, the break down of the EC's first apparent agreement with the Yugoslav parties saw the imposition of an arms embargo and the suspension of all aid on 6th July, others were urged to follow suit.<sup>182</sup> US sanctions were not imposed until the EC eventually took this step in November, and then with little hope of success other than as a sign of the seriousness with which the situation was viewed. Even the idea of sanctions had not

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179 Eyal comments on the importance of this mistake. Eyal, *Europe and Yugoslavia*, 76.

180 This process was well under way even before Croatia and Slovenia seceded. "True, the Yugoslav mess is off-puttingly complicated, a mass of unpronounceable names, savage ethnic hatreds and obscure historical disputes." "Yugo This Way, Yugo That Way," *The Economist*, 11 May 1991, 13.

181 Eyal, *Europe and Yugoslavia*, 26.

182 Gow and Freedman, "Intervention in a Fragmenting State," 103. David Buchan and Ronald van de Krol, "EC Pursues Delicate Balancing Act of Support for Yugoslavia," *The Financial Times*, 6 July 1991.



been prominent in the US, being supported by the New York Times leader writers, for example, only as late as November 1991.<sup>183</sup>

The idea of the use of frozen aid, and new aid, to reconstruct a unitary Yugoslavia was prominent during July. Delors established a Commission team to examine how EC aid could help prevent the collapse of Yugoslavia's economy.<sup>184</sup> Others were stressing the future need for a single currency and trading system, even if a looser political confederation were negotiated.<sup>185</sup> Among the Yugoslavs themselves, and especially the Serbs, such talk had been superseded. The war was now for territory for ethnically based states, not for the unity of Yugoslavia.<sup>186</sup>

This was not accepted within the EC. Unity remained the goal of most of the members, with only Germany and, from outside, Austria, pressing to allow dissolution. However, Germany was constrained by the need to maintain unity within the EC, resulting in it concentrating on applying sanctions to the Serbs as primarily responsible for the war. Hans Dietrich Genscher, the German Foreign Minister, was pressing for selective economic sanctions against Serbia from early August.<sup>187</sup>

Sanctions were a prominent threat in EC efforts to get the extension of its observer mission to Croatia.<sup>188</sup> This was a crucial part of its strategy to establish a cease-fire,

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183 "Punitive sanctions, enforced by the UN and backed by the US, may now be the only way of ending this carnage." Editorial, "Serbia's Spiteful War," *New York Times*, 6 Nov. 1991, sec. A.

184 David Buchan and Laura Silber, "EC Offers More Help to Yugoslavia," *The Financial Times*, 30 July 1991.

185 Robert Mauthner, "The EC is Found Wanting," *The Financial Times*, 31 July 1991.

186 Gow and Freedman, "Intervention in a Fragmenting State," 108.

187 "Here Lies Yugoslavia," *The Economist*, 10 Aug. 1991, 9.

188 Gow and Freedman, "Intervention in a Fragmenting State," 109.

install monitors to ensure it held and identify the guilty party if it broke, and to facilitate a political settlement on the basis of the existing borders and a reformed and loosened confederation. Serbia eventually agreed to observers at the start of September,<sup>189</sup> by which time the Croatian Serbs were in control of approximately one third of Croatia.<sup>190</sup>

The UN Security Council's discussions at the end of September also considered the use of economic embargoes to try and persuade the parties to cease fighting. This resulted in the imposition of a mandatory arms embargo on Yugoslavia, granted not in response to the perceived seriousness of the situation, Article 2(4) dealing with acts of aggression was not invoked, but at the request of the Yugoslav delegate.<sup>191</sup> This was unique and crucial to the passage of the embargo and even to the holding of the meeting at all. Some members of the Council, notably China, said that without the Yugoslav request for the meeting to be held and the embargo instituted they would have opposed all action on the basis of non-intervention.<sup>192</sup> The principles of the states-system were paramount. The potentially much more effective oil embargo was not discussed and the idea of the imposition of economic costs leading to achievement of political goals was absent.<sup>193</sup> This is indicative of the limited consensus on the economic liberal aspects of the orthodox Western model of legitimacy. Legitimising policy against such standards would have been unacceptable to both the Soviet Union and China in particular.

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189 Ibid.

190 Laura Silber and Ronald van de Krol, "First EC Mission in Croatia Failed, Say EC Monitors," *The Financial Times*, 14-15 Sept. 1991.

191 Weller, "The International Response to the Dissolution of the SFRY," 577-578.

192 Ibid.

193 Ibid., 577-581.

Sanctions and the hope of achieving the EC's goals via economic pressure had a limited role in the Carrington Conference. It concentrated on creating conditions for a political settlement, whilst also trying to establish a viable cease-fire. The basis for the political settlement was a somewhat uncomfortable mix of the principles of the states-system and liberal political ideas.<sup>194</sup> The same was to come through in October's proposals for a new confederation based on the EC with extra protection for minority rights.

The role played by the threat of sanctions in getting Milosevic's acceptance of the secession of Croatia was limited. Gow and Freedman ascribe it to threats to withdraw recognition from Yugoslavia and the military setbacks in Croatia the Serbs were beginning to suffer.<sup>195</sup> However, during October as the agreement unravelled the EC relied on the threat of selective sanctions to get the Serbs to agree to its confederal plan.<sup>196</sup> The Serbs, under enormous pressure, nevertheless rejected the EC plan and backed the Croatian Serbs in their war and their demands for independence when they refused to bend to Milosevic's pressure to accept the EC proposals.<sup>197</sup> The power of economic rationality and belief in cost-benefit analysis was unable to overcome nationalism in the search for order.

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194 For an account of the Carrington Conference see Gow and Freedman, "Intervention in a Fragmenting State," 117-122.

195 Ibid., 118.

196 Ibid., 121. President Bulatovic of Montenegro described his acceptance as the result of the threat of sanctions. Ibid., 120.

197 Ibid., 121.



The Badinter Commission was pre-occupied with similar issues, although particular emphasis was placed here on liberal political ideas. Certainly, Badinter's criteria for recognition made no mention of the type of economy states ought to possess.<sup>198</sup>

Concerns about economic viability or the extent of the commitment of a Republic's government to market economics were not to impinge on the decision to grant recognition and open diplomatic relations.<sup>199</sup>

When the time came to recognise Bosnia-Herzegovina at the start of April, its ability to satisfy standards of legitimacy derived from economics was irrelevant. Recognition was about a last ditch effort to protect Bosnia's borders and a vain hope it would establish the mutual interest in a durable cease-fire it had brought about in Croatia.

In general, liberal economics were important and influential. They help explain why the power of the sanctions weapon was enormously over-estimated by the EC, in the face of nationalistically driven concerns for territory, sovereignty and traditional Realist understandings of security. Inflicting economic damage, indeed even threatening to inflict economic damage, was expected to provide some control over the spread of the war and to bring the parties to the negotiating table. It is arguable this eventually worked with the ruining of the Serb economy and the change in

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198 These principles were ostensibly designed to apply throughout Eastern Europe, mindful of the imminent collapse of the Soviet Union, however, as far as I am aware they have never been referred to outside of the Yugoslav context. Weller, "The International Response to the Dissolution of the SFRY," 587-588.

199 Weller notes that the Badinter Commission's criteria were formally about the opening of diplomatic relations, rather than the recognition of states, despite their title of "Guide-lines for the Recognition of New States in Eastern Europe and the Soviet Union", although he accepts that these two were often conflated. That recognition was thrown into doubt by Badinter's negative report on Croatia and that the Croatian government had to make hurried assurances that it would meet Badinter's concerns before it was recognised suggests that this conflation was near total and that the EC's assertions that the criteria dealt with diplomatic relations was spurious. "The International Response to the Dissolution of the SFRY," 587-588.

Milosevic's attitude to restraining the Bosnian Serbs in 1994, but Western efforts to manage the crisis between 1990 and April 1992 were hampered by their desire to legitimise action against economic liberal standards and the influence they had in ways of thinking about how to deal with a brutal nationalist war.

## Chapter 7

### *Judging Legitimacy: trade-offs and compromises*

#### 7.1 Introduction

This chapter serves as a conclusion to the consideration of the legitimacy of the international response to the collapse of Yugoslavia begun in chapter 5. As emphasised in chapter 2, the model of legitimacy is evolutionary over time, not necessarily completely internally consistent, and subject to cynical abuse. However, this has not prevented it from being useful in looking at both the rise and fall of Yugoslavia and the Western-led response. This chapter tries to go beyond considering the way in which policy choices reflect limitations brought about by a concern to legitimise action in relation to an orthodox, Western model. It tries to come to a judgement. This, as mentioned earlier, requires a sympathetic yet rigorous consideration of the main themes of the international response to allow fair judgement against the three inter-related value systems of the model.

Summarising each of the three spheres, the main themes of the international response to Yugoslavia's collapse are:

1. The principles of the states-system and the goal of order were the bedrock for the actions of the EC and others. Concern over wider European instability and especially the position of the Soviet Union meant it was regarded as essential to hold Yugoslavia together if possible and, if not, to avoid unwelcome precedents such as accepting forcible border movements and a dramatic



extension of the principle of national self-determination to minorities within Federal units.

2. The role of liberal political values, especially in the actions of the EC, was prominent. Hopes for establishing democracy, protecting human rights and encouraging other standard feature of the liberal state were high and an important motivator of policy. Caught up with this, although somewhat distinct, is the EC's desire to promote itself as new type of foreign policy actor for a new, post-Cold War Europe where traditional power and security politics could be replaced with a new emphasis on political integration and economic interdependence.
3. The economic liberal aspects of the EC response to Yugoslavia, trying to push free-market economic reform to the centre of the agenda, fell in the face of powerful nationalistic forces and, once fighting began, the overwhelming need to contain the conflict and establish a cease-fire. The faith in the effectiveness of economic threats to secure a settlement and the power of rational, cost-benefit thinking was more durable but ultimately as fruitless.

Judging the legitimacy of these efforts means assessing not only whether the policies fell within the three spheres, but whether they lived up to reasonable expectations in the circumstances. This is part of the value judgement of legitimacy, asking if what was done was sufficient as part of an effort to promote the values which combine to form the Western orthodox model of legitimacy.

## 7.2 The legitimacy of the states-system

In terms of maintaining the sovereignty and territorial integrity of Yugoslavia the Western-led efforts to manage the collapse of Yugoslavia were a failure. For only the second time since 1945 a part of a state successfully seceded.<sup>1</sup> That this was based on an appeal to national self-determination is a further breach with accepted practice and custom. Efforts to prevent this happening, up until December 1991, should, on this basis, be judged legitimate despite their failure. However the EC's connivance in bringing about the recognition of Croatia, Slovenia and Bosnia via the Badinter Commission would have to be declared illegitimate because it went beyond previous practice and aimed at justifying secession. This, at least, would seem to be the conclusions on the basis of the procedural and institutional approach to legitimacy.

However, using the model developed in this thesis we can come to more a more subtle assessment of the states-systemic legitimacy of Western management of the Yugoslav crisis. The underpinning value of order is the key here. The goal of minimising the disruption caused by Yugoslavia's implosion is one of the themes of international management efforts. Whilst those efforts at the CSCE and UN concentrated on classic states-systemic mechanisms of Resolutions appealing for peace and denouncing secession, the negotiation of cease-fires and other diplomatic manoeuvring, this is one of the reasons for their marginalisation. The EC's ability to exert leadership came not only through a willingness to try but also from the range of measures it was willing to use in pursuit of order.

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<sup>1</sup> The only previous example was Bangladesh in 1971. This does not include de-colonisation where colonies, such as those of France, were regarded as an integral part of metropolitan France and their independence could therefore be regarded as secession.

During 1990 these focused on political and economic reform of Yugoslavia to help it make the transition to liberal democracy and a market economy. Whilst these measures are able to attract legitimacy from the political and economic liberal aspects of the Western model, they were also aimed at enabling Yugoslavia to take its place in a new European security system which would generate order through democracy and economic success.

Whilst the same reformist tools were persisted with in the first six months of 1991 the basis of the order they aimed at took on more of a states-systemic character. Buying and bullying the Yugoslavs into remaining together was more about trying to avoid the risks of secession and war than transforming the country as part of changing the basis of order in Europe.

The same motives can be seen in policy after 25th June 1991. The needs of order meant firstly trying to get the declarations of independence suspended, secondly trying to establish a cease-fire so that the risk of war spreading beyond Yugoslavia's borders could be minimised and, thirdly and hopefully, achieving a negotiated settlement. Whilst the first was achieved temporarily, the second only came about when the principle of secession had been formally and completely accepted and the third proved impossible during our period. This meant new and innovative mechanisms like Badinter needed to be tried. It also brought about the use of old principles in new ways, such as the extension of territorial integrity to the Republics to avoid having to move borders, something very likely to result in more fighting with less chance of agreement.



Therefore, once the fighting was underway the EC's goal was order by containing the conflict and using a mixture of traditional principles and innovative ideas to produce a workable framework for a solution. For too long a part of this framework was taken to be the continuation of Yugoslavia, but this need not detract from the legitimacy of EC action. Badly informed and inappropriate, sometimes; illegitimate, not necessarily. Looking back at the criteria of chapter 5, the mechanisms may have been unorthodox but the goal was the legitimate one from the states-systemic perspective.

However, the results were less obviously consistent with the goal of international order. Having failed to keep Yugoslavia together, the Western-led efforts to control the crisis failed to ensure its peaceable, consensual dissolution. This was almost certainly an impossible task, but the failure to achieve it calls into question the legitimacy of international management of the crisis. Yugoslavia endured a terrible war. Five years of death, destruction, 'ethnic cleansing' and barbarism which continually threatened to spill over into neighbouring states ensued. The conflict may have been contained within Yugoslavia's borders, but it remained a threat to international order.

We can appreciate the difficulties faced by the EC and others in dealing with Yugoslavia's bitter break-up. We can understand the constraints established by the needs of order and accepted practice on how to approach questions like the legitimacy of secession and self-determination. This informs our assessment of the reasons for action and the form of action. Using a value system approach to legitimacy we can judge whether or not decisions and action fulfilled the goals created by those value

systems. In the case of the states-systemic value of order the legitimacy of the Western led efforts to manage Yugoslavia's collapse between January 1990 and April 1992 is limited because of the terrible war that followed.

### 7.3 Liberal political ideas

The qualification to this judgement results in part from the need to consider the other elements of the Western orthodox model of legitimacy. The pursuit of order by containing the conflict and making as few concessions as possible on secession in the name of avoiding precedents is not the whole story. The important and close relationship of liberal political ideas to the states-system became closer and was made more important by the EC's leadership role. Its stress on liberal political aspects of legitimacy included emphasising their potential contribution to the cause of order. This made more explicit a willingness to see connections between domestic political conditions and international orderliness. Therefore, in judging the legitimacy of the response to Yugoslavia's collapse it is important to consider the role of liberal political values as part of a standard of order, as well as in their own right as a desirable development.

The hopes for transforming the basis of European politics took this liberal sphere of the model of legitimacy closer to the heart of the concept. The promotion of elections in 1990 and 1991, the encouragement of economic reform and support for Markovic, the Carrington proposals for a 'mini EC', and the Badinter criteria on electoral mandates all bear the imprint of the liberal political value-system.

What this study of the international response has shown is that these initiatives also bear the imprint of the difficulties nationalism creates for a liberal standard of legitimacy in particular. The Carrington proposals for a 'mini-EC' could only have been workable had Yugoslavia possessed a climate of nationalism similar to that in the EC. A general toleration and respect for different identities, backed up in the case of the Yugoslav proposals by a dedicated judicial procedure, was essential, but almost completely absent. The EC struggled continuously in the face of political actors motivated and legitimised by a popular will which saw national identity in exclusive terms and created political programmes requiring the deliberate privileging of one people over another. Tolerance and respect for diversity were never going to be easily established considering the depth of hostility which emerged, especially once fighting was under/~~way~~, but the EC seemed to assume it would appear. The deep difficulties within liberal political standards of legitimacy, which compel respect for identity even when that respect is not reciprocated, were irresolvable and created a weakness in policy proposals which was repeatedly exposed.

The apparent willingness of the EC to assume the Yugoslavs would fit into the circumstances the EC hoped to find is not only a sign of the difficulties within liberal political ideas and forms, but part of the EC's wider agenda. The creation of a new, post-Cold War European politics with the EC at its core required such nationalist disputes to be resolvable on the basis of the mechanisms the EC hoped would characterise the new situation. So great seems to have been the desire to try and make such a system work that the difficulties of deeply felt ethno-nationalism were wished away, with the Yugoslavs expected to fit into the die the EC cast. Therefore, the goal



of a much more liberal political system reinforced the inevitable difficulties the EC would have faced in dealing with the collapse of Yugoslavia.

Markovic seemed to provide the EC with the sort of politician they wanted to find in Yugoslavia, explaining the backing for him. This resulted in too much faith being placed in a Prime Minister whose position was inevitably weak because of the feeble central institutions in the Yugoslav political system, exacerbated by his failure to achieve popular support in the 1990 elections and a consequent inability to deliver on his promises. This sort of mis-judgement reappeared in the Badinter Commission, especially its treatment of Bosnia.

By demanding a referendum Badinter was fulfilling the remit he had been given, but the conditions he was asked to judge upon were inappropriate. They are important because they provide perhaps the purist statement of the liberal political values of legitimacy in the Yugoslav crisis, but are undermined by the weakness over nationalism. The down-playing of traditional criteria of statehood reflected a need to get away from those criteria, which frowned heavily on the secessions the EC was looking to legitimise. More than this, though, their stress on liberal internal political arrangements marked an effort to achieve not only the goal of establishing states hopefully able to meet the concerns and demands of their own people, but by doing so to contribute to peaceful and stable relations in the Balkans. The states-systemic goal of order could also be served, making liberal political ideas and forms a more important element of the model of legitimacy.

At the same time, of course, this would also serve the goals and interests of the EC, making such a scheme doubly attractive. The successor states to Yugoslavia would be ideal members of the new European security architecture where power and security politics would take a back seat to the promotion of human rights, liberty, tolerance, respect and prosperity. Again, the practical political requirements of the EC's own ambitions interfered with the handling of a delicate and dangerous situation.

The Badinter remit, notable for its stress on liberal political values and forms, was therefore always going to be in trouble, attempting to do two jobs at once. Its position on nationalism and identity was as flawed as that of the whole policy. Elections and referendums were central tenets of its criteria leaving it unable to address the problem of electoral support for illiberal ethno-nationalism. The way in which Germany recognised Croatia before Badinter reported undermined his criticism of the lack of minority rights protection in the Croat constitution. Greek objections to Macedonian recognition, possibly in part because of Greece's own failings on minority rights, undermined any influence Badinter and the EC may have had in this area.

The minefield of dilemmas surrounding liberalism, nationalism and the states-system could not be safely traversed. The Bosnian referendum was always going to be a prelude to war. The Serbs seeking to secede would use the vote for them in their areas of Bosnia as a legitimisation of their demands for self-determination to join Serbia proper. The EC could not simply dismiss this, although it tried too. Its inability to make coherent distinctions within its own liberal political terms of reference over who could and who could not vote for independence dramatically undercut its ability to generate the results it wanted, not helped by its tendency to assume and hope that

the preconditions for those results existed when they obviously did not, certainly in the case of holding a referendum in Bosnia.

The EC can be seen as operating within the Western orthodox model because of its efforts to use liberal arguments and mechanisms to promote liberal goals. Whether it adequately promoted and protected those values is open to question. The weakness of policy instruments and the lack of political will to take hard decisions - deploying a small observer mission rather than peace-keepers in Croatia, not taking any precautionary measures to try and calm the situation in Bosnia during the referendum, vacillation over the use of economic sanctions - raise awkward questions. This is not to deny the difficulty of the situation, which was acute, but to point to the need when assessing legitimacy to look at actions as well as intentions, to see whether or not the values that combine to form the model of legitimacy attract the commitment that is necessary if their promotion is to be more than an aspiration.

Sympathetically assessing the constraints under which the EC in particular was working and knowing how those constraints came through in actions and decisions allows us to be critical of what might be called wishful thinking. But equally it allows us to appreciate that not only stopping the Yugoslav wars but enabling the building of a pluralist, democratic society in its place was an impossibly tall order. More could, and should, have been done, especially in Bosnia where the opportunity to deploy peace-keepers to try and contain the situation before large-scale fighting began was missed.



Where credit is due is the EC's refusal to resort to cynical measures, such as backing a military coup in May 1990 to maintain unity by force, or establishing a *cordon sanitaire* around Yugoslavia and awaiting the result of a trial of strength. Liberal political values remained prominent and the EC committed a great deal of political credibility to their promotion, with little reward. The difficulties were partly of their own making - the confusion of helping Yugoslavia with promoting the EC's future role, an apparent unwillingness to face the seriousness of ethno-nationalism - but the inherent difficulties of the situation and the weaknesses of the programme they were pushing make it difficult to deny the judgement that the EC acted legitimately in relation to liberal political values.

#### 7.4 Liberal economics

The role of liberal economics in legitimising the efforts by the international community to manage Yugoslavia's collapse is concentrated in the first period of the crisis, prior to the declarations of independence by Croatia and Slovenia. Here the liberal economic values are prominent in the policies pursued and the goals they aimed at achieving.

One reason for this is the prominence of Markovic as a Yugoslav leader during 1990, a position he rapidly lost as the focus of Yugoslav politics moved away from reform to survival of the country, or what to replace it with, in the latter part of the year and during 1991. However, whilst Markovic, the international community's main hope for reform, was in a position of power his economic hopes coincided with those outsiders looking to help Yugoslavia transform itself. The economic liberal goals of reducing

state involvement in the economy, and privatising and re-structuring industry, commerce and finance were conditions attached to the massive loans Markovic was seeking to help stabilise an economy reeling from a decade of crisis and beset by deep Republican rivalries.

For those outside Yugoslavia, economic liberalisation would help integrate Yugoslavia into the global economy and form a crucial part of a political reform package aimed at transforming the country into a modern democracy and part of the hopes for a new European family of democratic states. The similarities in ethos between the political and economic strands of liberalism, their shared stress on individualism in particular, made economic and political reform natural companions for those, especially the EC, trying to guide Yugoslavia away from its Communist past.

This, at least, was the goal in 1990. As the political crisis deepened into 1991 with the country's existence coming under threat, the use of economic policy tools moved away from liberalising Yugoslavia's economy to the use of economic carrots and sticks to try and buy unity.

When this failed with the declarations of independence by Croatia and Slovenia, the goals of containing the conflict and trying to establish first a cease-fire and then a political settlement provided the legitimation for economic policy tools. Economic sanctions became a prominent threat in the efforts to get agreements to stick and cease-fires to hold. The legitimising power of economic liberalisation largely disappeared. Its influence can, however, be seen in the thinking behind this, the faith

in the power of economic logic to persuade the Yugoslavs they could not afford to go down the path of war they seemed set on. Reason and a kind of cost-benefit analysis would convince them of the need to back away from conflict and see their future as better provided for by co-operation.

As with the EC's wishful thinking about political liberalisation, this under-estimated the intensity of feeling in Yugoslavia, where arguments about Gross National Product had largely been replaced by calls to national destiny. But, as with the EC's refusal to abandon its hopes of promoting liberal political values, it continued to press a case on sanctions based on faith in their effectiveness and in the hope that successor states would take the reform steps Markovic had been unable to bring about in Yugoslavia as a whole. Certainly Slovenia and Croatia used their stated commitment to economic reform as part of their case for support and a further reason why they needed to get away from Serbia and its ruling Socialist party with its continuing commitment to a strong role for state planning in the economy.

The semi-detached relationship of liberal economics in the Western orthodox model of legitimacy seems, therefore, to be narrowing, retaining influence even in a situation such as Yugoslavia where the principal issues were classic political questions of territory, sovereignty and government. The EC's commitment to economic liberalisation in the first stages of the crisis and the discernible influence of economic liberal values later on certainly seem to warrant the judgement of legitimacy for the international efforts to manage the crisis in relation to the economic aspects of the model.



## 7.5 Conclusion

The international response to the collapse of Yugoslavia can therefore be judged legitimate. Its innovations and departures from previous practice were not always successful or entirely appropriate, but the goals aimed at, the means used and the achievements of the actions come within the orthodox Western model of legitimacy. A sympathetic assessment which takes into account the difficulties of the situation and looks at choices in relation to the values underpinning institutions and procedures has provided us with a better account of the collapse of Yugoslavia than can be had by looking at the issue of legitimacy as a procedural label.

The judgement is not uncritical and the degree of legitimacy is not absolute. Because we have seen the dilemmas at the heart of the concept of legitimacy, especially the difficulties of ethno-nationalism which Yugoslavia posed in an extreme form, we can appreciate the difficulties more fully. Combine this with an understanding of the complexities and difficulties of the situation within Yugoslavia and it becomes difficult not to agree with Gow and Freedman that the EC did as much as could reasonably be expected and deserves credit for containing the violence and protecting lives in Croatia and Slovenia.<sup>2</sup> In relation to Bosnia, however, the EC failed to take steps which might have helped the situation and its insistence on a referendum was irresponsible and contributed to, although it certainly did not cause, the outbreak of a terrible, genocidal war. What the EC tried to do and how it tried to do it were legitimate because they came within the value-systems of the orthodox Western

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<sup>2</sup> James Gow and Lawrence Freedman, "Intervention in a Fragmenting State: the Case of Yugoslavia," in *To Loose the Bands of Wickedness: Intervention in Defence of Human Rights*, ed. Nigel S. Rodley (London: Brassey's, 1992), 128-130.

model which seems to provide a valuable tool in analysing the behaviour of those actors from within the Western tradition. The failure to achieve goals such as the preservation of Yugoslavia or its peaceful dissolution and transformation into a set of liberal democracies with market economies was partly the result of mistakes and misunderstandings, but can principally be seen as resulting from factors within Yugoslavia beyond the control of the EC and the other actors involved.

This judgement on the management of the collapse of Yugoslavia does not end matters. In agreeing with Gow and Freedman we accept their arguments about the containment of the conflict and the difficulties of the situation. We therefore privilege the legitimacy of order and thus the legitimacy of the states-system. This harks back to the idea of order being the prior value because of its status as the pre-requisite for the development of political and economic liberal ideas and institutions, and a safety net of legitimacy for actors and actions.<sup>3</sup> This is the principal theoretical lesson we can draw from this analysis of efforts to manage Yugoslavia's collapse. However, this should not be allowed to overshadow the importance of the theme of the importance of hopes for a new form of politics in Europe where political and economic liberal ideas are much more prominent.

The cosmopolitan/communitarian divide which was suggested as establishing a 'grey area' at the heart of the concept of legitimacy re-appears clearly when the task of judging the Western-led response to the collapse of Yugoslavia is attempted.<sup>4</sup> The problem of reconciling a states-systemic value system based on order and with a

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<sup>3</sup> See above, chapter 2, especially 2.2 and 2.7.

<sup>4</sup> See above, 2.7.

strong communitarian element requiring governments to privilege their own populations over those of other states points toward one set of legitimate policies. Political and economic liberal values and ideas, with their cosmopolitan tendencies, point to another. Nationalism, which is important to liberal political ideas but causes it immense difficulty on the issue of identity, heightens the tension and practical difficulties of the cosmopolitan/communitarian divide. In Yugoslavia the situation was further exacerbated by the split within the country along nationalist lines and therefore the chances of success of the liberal elements of the international response was significantly reduced. Making a value judgement like legitimacy becomes extremely difficult when the underlying value systems are on both sides of an apparently irreconcilable divide.<sup>5</sup> This underpins the necessity of gradations of legitimacy and the impossibility of a simple legitimate/illegitimate judgement because of the inclusion of incompatible elements. This is a better explanation than looking solely at levels of consistency with established custom and practice of a need accepted in existing accounts, especially the legal ones, for a graded judgement.

In looking to learn the lessons of Yugoslavia for the model of legitimacy the ways in which the safety net of states-systemic legitimacy works and how it interacts with the two liberal elements becomes the main focus. Looking at these areas of overlap to refine the theoretical model of legitimacy is thus the purpose of chapter 8. If the model is to be more than a tool of analysis for the collapse of Yugoslavia, and become a model with applicability for analysing other actions involving those within the Western tradition at the end of the twentieth century, this provides a crucial focus.

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<sup>5</sup> Chris Brown, *International Relations Theory: New Normative Approaches* (Hemel Hempstead: Harvester Wheatsheaf, 1992).



## Chapter 8

### *Learning the Lessons: legitimacy, international relations and Yugoslavia*

#### 8.1 Introduction - the value of the model

This chapter tries to assess the lessons the rise and fall of Yugoslavia has for the Western orthodox model of legitimacy. It has thrown some new and interesting light on the reasons for and timing of the collapse of Yugoslavia and the choices made by the powers attempting to contain the crisis and resolve the war. By doing this it has demonstrated the superiority of an approach which treats legitimacy as a value judgement over those stressing procedural and institutional manifestations of legitimacy.

By following Beetham's call for a piece of practical political ethics and taking seriously the basis for the acceptance of the authority of the Yugoslav state as reflecting a set of values, even a model designed to apply to the West has been able to point us in useful directions in examining Yugoslavia. It enabled us to show how the system lost all its important pillars of legitimacy and also the way in which the country became irrevocably split between those seeking to join the West and those appealing to a new set of locally specific values based on ethno-nationalism.<sup>1</sup>

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<sup>1</sup> See above, chapter 4.

These sort of issues are clearly outside the explanatory power of approaches to legitimacy such as Franck's which focus on international custom and practice.<sup>2</sup> Those who have followed in his footsteps, such as Murphy, also focus on these sort of issues, with, in his case, the addition of concerns about the ability of the Security Council to act as a representative of the community of states.<sup>3</sup> Examining Yugoslavia's collapse has shown the way in which custom and practice could be stretched by the European Community in particular and how those institutions, like the CSCE and the Security Council, which were most concerned with following customary practice and formal institutional rules, were sidelined.<sup>4</sup> Rather than being surprised by the way the usual rules of the game were stretched, as Weller appears to be,<sup>5</sup> and focusing on the precedents set, using a model based on value systems we have been able to show why custom and practice needed to be stretched and why and how this took the forms it did.

Wight's use of legitimacy in relation to recognition has also been shown to be of limited use.<sup>6</sup> He too would have nothing to say about Yugoslavia's domestic difficulties or how they might be linked to the international. His account of legitimacy as recognition contains no discussion of de-recognition, the conditions under which a state might no longer qualify for membership of the club of states. His historical analysis of the changing basis of recognition also lacks any conclusion which

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2 Thomas M. Franck, *The Power of Legitimacy Among Nations* (Oxford: Oxford University Press, 1990).

3 Sean D. Murphy, "The Security Council, Legitimacy and the Concept of Collective Security After the Cold War," *Columbia Journal of Transnational Law* 32 (1994).

4 See above, 6.2.2.

5 Marc Weller, "The International Response to the Dissolution of the Socialist Federal Republic of Yugoslavia," *American Journal of International Law* 86 (1993).

6 Martin Wight, *Systems of States* (Leicester: Leicester University Press, 1977), 153-173.

suggests ways in which future change may come about or suggestions of circumstances in which the existing practice may be bent. Whilst his analysis of past developments is excellent, the model for recognition he produces is overly static.

Yugoslavia's collapse and the recognition of Croatia, Slovenia and Bosnia shows how the formula for recognition can be changed and modified to try and meet the needs of a desperate situation. By widening the remit of legitimacy it also shows how recognition, in this case at least, is linked to a much wider set of values and expectations among the Western states. This linkage extends to the political situation in Europe, emphasising the evolutionary nature of legitimacy and also pointing up how the model is not applicable solely to Yugoslavia. Indeed it could not be as Yugoslavia did not happen in a vacuum, but is relevant to Western actions as a whole in the post-Cold War period.<sup>7</sup>

The value of the model in pointing to issues of importance in socialist Yugoslavia's legitimacy also suggests that value systems as the basis of legitimacy are a valid way of approaching legitimacy issues in non-Western states.<sup>8</sup> It causes us to get behind the Weberian focus on the acceptance of rule and the institutionalisation and socialisation mechanisms to ask about the value systems which underpin these.

For the model itself, trying to account for Yugoslavia's rise and fall has shown how the attempt to isolate the three spheres of orthodox Western legitimacy is artificial. There is a need to provide a more unified treatment based on the ways in which the

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<sup>7</sup> See above, chapter 5.

<sup>8</sup> See above, chapter 3.



three spheres overlap with one another. Analysing events through each of the spheres separately has not been easy and the multiple legitimising and de-legitimising effects of actions have come through clearly. Thus it is the areas of overlap between the three spheres that are the most interesting.

The case-study shows how the states-system and its legitimising value of order is nevertheless ubiquitous. A more thorough examination of the states-system as safety net, based around the idea of order as a political priority, will form the first section of this chapter. The following two sections look at how the theoretical tensions set out in chapter 2 can be seen to have influenced policy towards Yugoslavia, considering first political and then economic liberal ideas and values. The chapter will then move on to look at the limitations of this study of legitimacy and suggest areas where further research is most pressing in order to test this hypothesis more fully and further refine its theoretical conceptualisation.

## 8.2 The principles of the states-system as a safety net

Following the examination of the collapse of Yugoslavia and the Western-led response, the idea of the states-system as the basis of legitimacy in international relations has received support.<sup>9</sup> This notion of the states-system as a safety net for legitimacy rests on two main bases. The first is the prior value of ‘order’ and the role of the principles, rules, norms and mechanisms of the states-system in generating order. The second basis is the global acceptance of the states-system, its importance as an international society able to provide for peaceful co-existence. The two bases

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<sup>9</sup> See above, 2.2, 2.7 and 7.2.

are obviously inter-linked. If the states-system was not global in its extent then its ability to generate order and provide the basis for peaceful co-existence would be circumscribed and its legitimacy threatened. This link is provided by the idea of consensus.

The global basis of the states-system is the basis for the existing accounts of legitimacy in international relations. It is this that enables Wight to discuss recognition in general terms,<sup>10</sup> and Murphy to talk of the Security Council as having a role in representing the “global community” of states.<sup>11</sup> What they miss is the second basis of the legitimacy of the states-system in order. The value of order is what enables us to judge the legitimacy of actions and states in states-systemic terms.

By doing this we can account for the sense of surprise at the precedents set and the new directions taken by the EC especially in Weller’s account of the response to Yugoslavia’s collapse.<sup>12</sup> The EC may have been an unusual institution to try and lead the response to Yugoslavia’s collapse and it may have taken a number of unusual measures, but, as we have seen, its goal was order.<sup>13</sup> The EC was trying first to keep Yugoslavia together and then to minimise the fallout from its dissolution. Therefore, the value of order as the legitimising principle of the states-system also legitimised the actions of the EC. The institutional and procedural manifestations hide the basic goal which is what actually attracts legitimacy.

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10 Wight, *Systems of States*, 153-173.

11 Murphy, “The Security Council, Legitimacy and the Concept of Collective Security After the Cold War,” especially 208-222.

12 Weller, “The International Response to the Dissolution of the SFRY,” especially 606-607.

13 See above, 6.2 and 7.2.

This lesson for legitimacy can be taken further to refine aspects of Franck's account. There is a lack of clarity in the relative importance of the four principles he identifies as helping create legitimacy.<sup>14</sup> His first principle of 'determinacy', a clear rule which takes into account the situation on the ground, is also an explicit acceptance of the need for flexibility and pragmatism in his model. His implication is that it is illegitimate to stick simply to the letter of international law where that law is obviously inappropriate to the situation being dealt with.

This is a loophole of coach and horses proportions which undermines his whole edifice. By using an approach to legitimacy which recognises it as a value judgement, allowing us to see the principal value of the states-system as order, we can narrow this loophole considerably. Instead of relying on particular circumstances and the need to reflect the situation on the ground we can instead accept departures from strict interpretations of international law, custom and practice in the interests of better achieving the goal of international order. The possibility of judging the legitimacy of innovation, rather than having to wait and see if it eventually becomes an accepted part of international custom, is restored.

This places the institutions of sovereignty, non-intervention and territorial integrity in their proper place - as components of a structure of order, rather than ends in themselves. The case study shows how this list is being extended. Those within the orthodox Western approach to legitimacy seem increasingly concerned to try and limit the use of force by states even within their territorial jurisdiction. No efforts

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<sup>14</sup> These are determinacy, symbolic validation, coherence and adherence. Franck, *The Power of Legitimacy Among Nations*. Also see above, 2.2.



were made to portray the actions of the JNA as being a constitutionally mandated force restoring the sovereignty and territorial integrity of a member of the United Nations. Instead, their actions were attacked and labelled at the UN a threat to international peace and security. This marks a significant change considering the prominence of the monopoly of the legitimate use of violence in understandings of sovereignty.<sup>15</sup> However, rather than being baffled by this we can see it as part of an evolving standard and understanding of order.

The non-use of force in relations between states, except in self-defence, has been accepted as part of orderly relations between states, shown by the prominence of the principle in the UN Charter. Concerns about dangers of escalation leading to disorder now appear to be starting earlier. At least among Western states, the fear that states prepared to use force domestically are more likely to use it internationally seems greater. Attached to this is concern that armed response by internal dissidents to military repression can threaten to spread and attract external sponsors. Therefore international order is best served by minimising the use of force in all politics, domestic as well as international.

The consensus surrounding such Western-led efforts to modify the institutions of the states-system is questionable. The importance of consensus to the legitimacy of the states-system makes it difficult to institute rapid and dramatic alterations. Without consensus on the value of order and the role to be played by the rules, norms and principles of the system the legitimacy of actions is at risk. Murphy's account of the weaknesses of the Security Council's legitimacy as a spokesman for the international

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15 e.g. K. J. Holsti, *International Politics: a Framework for Analysis*, 6th ed. (Englewood Cliffs, N. J.: Prentice Hall, 1992), 40.

community rests on this.<sup>16</sup> The extent of the role of the Security Council as guardian of international peace and security is disputed and therefore the legitimate social purpose necessary to transform power into authority is not clear.<sup>17</sup> Thus the legitimacy of the Security Council as it tries to clarify this situation is under threat especially if it is seen to be trying to extend customary understandings of what constitutes a threat to international peace and security to include issues arguably within the scope of domestic authority. This sort of argument is intended to be indicative of the underlying disputes which manifest themselves in the procedural issues Murphy and Caron focus on.<sup>18</sup> It also points to the centrality of consensus to the legitimacy of the states-system in order to maintain acceptance of its role of providing order and the position of its rules, norms and principles within that role. The whole notion of an international society able to create the conditions for peaceful co-existence in the absence of over-arching authority - an anarchical society<sup>19</sup> - must necessarily rest on consensus. It is in these ways that consensus provides the linkage between the global extent of the states-system and its legitimising value of order.

Stretching this fabric of global extent, order and consensus must therefore be done carefully. This comes through in the way the EC tried to use and adapt principles of international law to fit the circumstances of Yugoslavia. Territorial integrity and the unacceptability of the forcible moving of boundaries was applied to the seceding

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16 Murphy, "The Security Council, Legitimacy and the Concept of Collective Security After the Cold War," especially 208-222.

17 John Gerard Ruggie, "International Regimes, Transactions and Change: Embedded Liberalism in the Post-War Economic Order," in *International Regimes*, ed. Stephen D. Krasner (Ithaca: Cornell University Press, 1983), 198.

18 David D. Caron, "The Legitimacy of the Collective Authority of the Security Council," *American Journal of International Law* 87 (1993).

19 Hedley Bull, *The Anarchical Society: a Study of Order in World Politics* (London: Macmillan, 1977).

Republics, for instance. The approval of the CSCE and UN Security Council were important to the legitimacy of the EC's operations in terms of the states-system, but the goal of order was what really counted.

The broad basis of the acceptance of the states-system and its legitimising value of order combines with the status of order as a prior value to make the states-system into a safety net of legitimacy. When Yugoslavia's institutions - the Federal Executive Council, the Presidency and the armed forces - lost their ability to contribute to order or actively contributed to the threat of disorder, Yugoslavia fell through the safety net and a new solution was acceptable as well as necessary. When the EC's efforts failed to help Yugoslavia make the transition to liberal democracy and a market economy it used many of the same tools but with the more basic goal of order in mind.

### 8.3 Liberal political ideas and the states-system

**T**he consensus surrounding liberal political ideas and values is much narrower. The goal of order as a legitimate social purpose able to turn power into authority may be widely accepted, the goals of liberal ideas about politics are not. However, the efforts to manage the collapse of Yugoslavia shows how there is a consensus within the Western orthodox model of legitimacy about this. This is not isolated from the wider and prior goal of order, indeed it cannot be, but its legitimising power is limited and constrained because of the lack of wider consensus.

This helps to understand the reasons for the concern expressed by Caron and Murphy about the problems of the representative nature of the Security Council and concerns



at its efforts to expand its role since the end of the Cold War.<sup>20</sup> Both stress the importance of pragmatism, echoing Franck, and the need for the Security Council to be effective in its role as guardian of international peace and security. This helps justify their scepticism about radical reform of the Council, although both agree with the need to make it more representative. Their judgement is that the leading role in the Security Council's most important operations of recent years - the Gulf War, Somalia and Yugoslavia - has been played by the United States, supported primarily by the UK and France, three Western states. Murphy and Caron's stress on the importance, because of their military capabilities, of these states to the successful implementation of Security Council resolutions shows how limited the consensus on liberal political ideas and values is. Their ability to take the Security Council in directions where such liberal elements are discernible is therefore the result of their capabilities, not because of widespread acceptance that these directions represent legitimate goals and therefore are able to transform power into authority. Once again, the institutions and procedures of legitimation can be seen to mask a deeper and more important dispute about values and legitimate goals.

Yugoslavia and the non-use of force are another aspect of this sort of argument. Western stress on non-use of force in Yugoslavia, as already argued, is part of a debate about order. However, efforts to extend it to domestic disputes because of their posing a threat to international order can be seen to contain liberally sanctioned ideas and goals. Abandonment of forcible settlement and repression of disputes creates the need for other ways of dealing with them. In the Yugoslav case, the West stressed classic liberal measures such as elections, constitutional guarantees, separation of

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20 Murphy, "The Security Council, Legitimacy and the Concept of Collective Security After the Cold War." Caron, "The Legitimacy of the Collective Authority of the Security Council."

powers and so on. For the West, and the EC especially, it could legitimise actions by overlapping liberal ideas and forms with the states-systemic value of order in this way. This had the practical advantage of keeping those outside the liberal political consensus, such as the Soviet Union, on board because they could stress the orderly aspects of the proposed solutions. Liberal political ideas and the state-system overlapped.

The challenge in the evolving Western orthodox model of legitimacy to non-intervention and state dominance of the legitimate use of force as part of the basis of order is indicative of the importance of liberal values and the declining relevance of a clear division between domestic and international order for those within the consensus. The domestic-international link, rather than divide, both in the way Yugoslavia lost legitimacy and the effort to legitimise the international response, is indicative of this.

The 1980s disputes over the future direction of Yugoslavia points to the importance of Yugoslavia's relationship to the rest of the world via non-alignment and to how disputes over modifying that relationship, perhaps by moving closer to the West, had domestic ramifications linked to fundamental disputes about the legitimacy of the country. The Western orthodox model was able to make headway into the emerging vacuum of legitimacy, but only as far as the consensus on the Western model as a viable alternative to the socialist legitimacy of the Titoist system extended. In the face of alternatives based on ethno-nationalism and an anti-Western version of Yugoslavia, the Western orthodox model was unable to make much progress.<sup>21</sup>

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<sup>21</sup> See above, chapter 4.

The international response to Yugoslavia's collapse seems to show, on the other hand, how much progress liberal political values have made within their Western heartlands. In particular, its cosmopolitan aspects have come through more clearly. The apparently advancing notion of universal basic forms of government and an emphasis on the rights of individual human beings plays its part in the challenge to the doctrine of non-intervention and the rise of the non-use of force.

If the basic unit of politics is the individual and rights reside with the individual then the protection of those rights are not the exclusive preserve of the government under whose jurisdiction that individual resides, especially if government is viewed contractually and the contract is being breached.<sup>22</sup> Cosmopolitanism is the basis of the idea of 'world society', generating ties of rights and duties across humanity, giving those outside the territorial boundaries of the state the right to protect people being abused. Most of the discussions of humanitarian intervention and the prevention of genocide rest on these sort of justifications.<sup>23</sup> It is also important in the idea of an emerging international legal right to democratic governance.<sup>24</sup>

The advance of ideas of universal rights, and especially universal forms of government to protect those rights, causes many problems for the states-system. The growing importance of this cosmopolitan conception of liberal political ideas in the

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22 See above, 2.3, 2.4.

23 See Adam Roberts, "Humanitarian War: Military Intervention and Human Rights," *International Affairs* 69 (1993). For a discussion of the debate between possible cosmopolitan and communitarian approaches to this issue see Nicholas J. Wheeler, "Pluralist or Solidarist Conceptions of International Society: Bull and Vincent on Humanitarian Intervention," *Millennium* 21 (1993).

24 Thomas M. Franck, "The Emerging Right to Democratic Governance," *American Journal of International Law* 88 (1994).



Western orthodox model of legitimacy clashes with the principles of the states-system that are basically communitarian, as well as powerful local legitimising factors of culture, history and religion.

Nationalism, both civic-territorial but especially ethno-nationalism, widens this divide. The EC's efforts in 1990 to help Yugoslavia make the transition to liberal democracy and a market economy fell foul of the power of ethno-nationalism and the depth of the dispute within the country about the way forward.<sup>25</sup> The EC's approach to questions of national identity within the state could not fit with the situation in Yugoslavia because the two were on opposite sides of the cosmopolitan/communitarian divide. Without consensus on the inclusion of liberal values in legitimacy and the absence of the civic-territorial nationalism it seemed to assume, the EC's proposals to save Yugoslavia on the basis of a reformed confederation had minimal chance of success. The legitimacy of the EC and the legitimacy of Serb-led proposals rested on different versions of the legitimacy of liberal political institutions and procedures. That liberalism has great difficulties with nationalism and the issue of identity made it impossible for the EC to deal coherently, consistently and adequately with this challenge to the basis of their proposals.

The ability of this approach to legitimacy as a value judgement to point us toward these sorts of differences is one of its principal virtues as an analytical tool. Certainly, the ability of existing models of legitimacy to do this is extremely limited. They offer comments on the way in which the EC attempted to get wider backing for its proposals from other states and also show us the way in which recognition was

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<sup>25</sup> See above, chapter 4, 5.3.1.

handled differed from existing practice, but as to the deeper reasons for the form of Western actions and the difficulties they faced, they are silent.

This comes through in the debate about national self-determination which Yugoslavia re-opened in dramatic and tragic style. The strength in the West of the claims to independence made by Croatia, Slovenia, Macedonia and Bosnia-Herzegovina rested ultimately on referendums returning majorities in favour of independence. This point was most dramatically made by the EC's insistence on such a referendum in Bosnia in February-March 1992. The power of the case put by Croatia and Slovenia for statehood was greatly aided by their role in Yugoslavia's break with the LCY, the electoral mandate of their governments and the clear majorities in the votes on secession. These were arguments that were impossible to ignore and certainly seem to have been particularly important to the German government, which was to lead the pressure for recognition. The people of the Republics had expressed their wishes and the governments they had elected were pursuing those wishes. To simply ignore this or attempt to find a way round it would have been impossible for the EC and others because of the great store they had publicly set by the extension of democratic forms of government and the need to make government accountable to the people.<sup>26</sup> The legitimacy of actions that ignored the electoral mandate for Croatia's and Slovenia's secession would have been in doubt.

The EC solution of a re-negotiated Yugoslav federation would allow the Republics more autonomy whilst maintaining the ostensible unity and territorial integrity of

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26 e.g. EC foreign ministers' declaration on human rights reprinted in Alfred Pijpers, Elfriede Regelsburger and Wolfgang Wessels, eds., *European Political Cooperation in the 1980s: a Common Foreign Policy for Western Europe?* (Dordrecht: Martinus Nijhoff, 1988), 362-364.

Yugoslavia. It would therefore not be seen to sanction formally the break-up of the state on the basis of national self-determination, avoiding the precedent such a step would set and the un-forseeable consequences it could have. This scheme can be seen as an effort to operate within the area of overlap between the needs for the promotion of liberal political ideas and forms, and the preservation of international order. The effort to manage Yugoslavia provides evidence for a move among Western states towards a greater role for the idea of the form of the state being linked to its ability to promote international order, linking liberal ideas about politics back to the states-systemic value of order and increasing the coherence of the orthodox Western model. This is in so far as it is able to be coherent given the problem of the cosmopolitan/communitarian divide, exemplified by the difficulty of dealing with exclusive forms of identity.

The exact extent of this merging of the two within the Western model is difficult to pin down and is continuing to evolve, as the different reactions to Yugoslavia's collapse and the question of recognition demonstrate. What is clear is that, in the Western orthodox model, the divide between the domestic realm as the realm of justice and the international realm as the realm of order is under growing challenge. Franck's division of the two is unsustainable.<sup>27</sup>

It is by appreciating liberal political values and goals that we can hope to come to a judgement which goes beyond whether or not the West complied with the rules of the international political game to see if they achieved more significant results by being true to the goals and values which underpin those rules. For the West, liberal political

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27 Franck, *The Power of Legitimacy Among Nations*, 208-246.



values - individualism, tolerance, respect for rights and duties - and the institutions necessary to safeguard this, are becoming more prominent.<sup>28</sup> They are values with legitimising power in their own right, and with the consequent ability to establish constraints on action, but they are also linked to the states-systemic structure of order.

#### 8.4 The states-system, liberal political ideas and liberal economics

Chapter 2 looked to liberal economic ideas and values as a ‘semi-detached’ component of the orthodox, Western model of legitimacy on the basis of their moving away from the state-centrism of the other two elements.<sup>29</sup> The case-study suggests there is a need to re-examine this relationship to try and bring liberal economics closer to the heart of the model. Slovenia’s appeals for a reform of the Yugoslav state included arguments stressing the need for a new type of state to allow for a re-modelled, market-based economy. When this proved impossible its appeals for statehood included its willingness and ability to fit into a liberal economic framework. Chapter 7 showed how the Western-led response to Yugoslavia’s crisis included an early emphasis on economic liberalisation as part of the package to aid the transition to liberal democracy and a market economy. When this proved impossible, economic policy tools and modes of thought betraying the rationality and cost-benefit approach of liberal economics continued to be important in EC efforts to contain the fighting and lay the basis for a negotiated settlement. Its ‘mini-EC’ proposals also stressed the economic benefits of maintaining a single market and possibly a single currency.<sup>30</sup>

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<sup>28</sup> See above, 2.3, 2.4.

<sup>29</sup> See above, 2.6.

<sup>30</sup> See above, 6.4, 7.4.

There is thus a need to look for ways to try and tie the economic liberal aspects of the model of Western legitimacy more closely to the liberal political and states-systemic core. Its basis in ideas of individualism and liberty provide a set of links to liberal political ideas, as does its cosmopolitanism. This means many of the problems of the cosmopolitan/communitarian divide apply here too. The more pressing task is to look at how liberal economic ideas and values can be linked to the core value of order and the states-systemic mechanism for providing it. As with the discussion of liberal political ideas above, it is necessary to consider how this aspect of the Western orthodox model links to its most general and widespread element, the states-system, and the implications for the consensus about the states-system and order.

This can best be achieved by looking at the way liberal economic ideas ‘push the envelope’ of order. They strain the basis of international society; challenging sovereignty, political independence and the paramount position of the state. This challenges the basis of order in the declaration of domestic politics as off-limits as a cause of war and aims to replace it with order through interdependence, peace through entanglement. Proposals from Slovenia, the Yugoslav Republic with the strongest commitment to economic liberalisation, and the outside world all included the preservation of a single Yugoslav market rather than trying to disentangle the pieces as thoroughly as possible. The notion of Westphalia that order could best be maintained by minimising contact was rebutted in favour of the need for engagement and also the need for development, the touchstone of liberal economic success. Satisfied, successful and developing states will be peaceable and contribute to the maintenance of order.

The dispute over the values of the states-system and liberal economics can be seen reflected in the debate within Yugoslavia during the 1980s. Slovenia was pressing for the country to join the Western mainstream and liberalise its economy in opposition to Serbian leadership of those calling for a more autarkic, economic nationalist approach with trade focused on barter with the Eastern Bloc. Both were seeking to respond to the need to repair the damage to Yugoslavia's legitimacy as a state and its self-management socialist system caused by economic failure. Popular pressure for economic success, in part the result of Yugoslavia's relative openness to the international economy, clashed with increasingly nationalistic pressure for economic independence as a necessary component of security in, for Yugoslavia, an unfamiliar world.

The cosmopolitan, liberal economic ideal of wealth creation clashed with the communitarian vision of an economy owned and run by and for the community, even if it is less efficient and effective in creating wealth and generating development. The growing power of exclusive ethno-nationalism with its emphasis on identity through membership of the community was incompatible with those attempting to appeal to a Western orthodoxy reflecting individualism and a tendency to view culture and community as obstacles to be overcome in the pursuit of a common set of solutions.<sup>31</sup> This problem is exacerbated by those solutions relying strongly on the opening up of the state, which in ethno-nationalist terms means the community, to competition and foreign influence, the very things an ethno-nationalist value system operating within the states-system is trying to prevent.

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<sup>31</sup> See above, 2.6.



The legitimation of Western-led efforts to assist the transformation of Yugoslavia against liberal economic aspirations and values ran into this alternative legitimacy of Serb economic ethno-nationalism. The attempt to use mechanisms such as the PHARE programme are indicative of the assumption that Yugoslavia, like the Czech Republic, Poland and Hungary, was determined to re-legitimise the economic system of the country by moving to capitalism. Whilst true of Markovic's Federal government, Slovenia and, to a lesser extent, Croatia, this was certainly not true of Serbia and the Yugoslav People's Army (JNA).

The shift in Western policy goals from economic liberalisation because it was in itself a legitimate thing to do towards using economic arguments and policies to try and hold Yugoslavia together and then contain its collapse in the interests of order, points to this potential of an alternative system of order based on economic entanglement and the logic of the division of labour. However, until a liberal international economy offers a structure of order as strong as that of the states-system its development will be constrained by the prior need for order. The challenge of nationalism reinforces the need for a system able to establish a structure of order which can rest on division and distinction, rather than integration. The sweeping aside of the EC's initial appeals to economic well being as a basis for the preservation of Yugoslavia is indicative of the continuing power and relevance of such an approach. Without this, the normative baggage of liberal economics as an orthodoxy for the global economy will threaten to become a bitter battleground between those pressing integration, openness and the role of the state as an economic actor in support of wealth creating enterprise; and those urging the protection of local values and cultures, identity and community over

wealth and the value of a states-systemic based system of order in diversity. The need to avoid this means the overlap between the states-system and economic liberalism in terms of legitimacy will remain skewed in favour of order through the mechanism of the states-system.

### 8.5 Conclusion

The Western-orthodox model of legitimacy developed in this thesis and applied to the rise and fall of Yugoslavia has therefore proved to be a useful tool both in analysing the crisis and in learning more about legitimacy in international relations. As well as trying to create an orthodox, Western model it has proved useful in directing us towards issues and values which underpinned the non-Western legitimacy of Yugoslavia and the alternative models for post-communist legitimacy in the country advocated most clearly by Slovenia and Serbia.

As well as these practical benefits it has shown up the importance of a value-based approach to legitimacy in order to provide roots for the procedural and institutional examination of the concept in the existing literature. By digging out the roots of these institutions and procedures in value systems we have been able to provide a much fuller account of the reasons for their form and the way in which they effect decisions and shape actors. Understanding the way in which the orthodox model of legitimacy influenced the Western response to the crisis in Yugoslavia has provided a far richer and wider account than would be possible using the existing work.

This thesis has tried to produce an account of a Western orthodox legitimacy which shows up the reasons for the difficulty and ambiguity in applying the label. Efforts to judge the legitimacy of the Western-led response to Yugoslavia's collapse have reinforced the theoretical problems for the model created by the cosmopolitan/communitarian divide, exemplified in practical difficulties of dealing with nationalism. The tension between the cosmopolitan elements of political and economic liberal ideas and values, and the tendency to assume civic-territorial nationalism, and the states-system's communitarianism creates a grey area at the heart of the concept, a fundamental division between the values which each of the three brings and thus the need for pragmatism if a judgement is to be made. It has also pointed to the way in which this pragmatic judgement tends to work out. The prior needs of order and its position as the legitimising value of the states-system has not only been shown to be at the heart of policy towards Yugoslavia but also to be at the heart of the orthodox Western model because of the limited consensus in the wider world surrounding the two other components. The consensus which the states-system is able to attract grants it a general relevance which subordinates the other two. Their promotion can enhance legitimacy, but it cannot be at the expense of the need of order or in ways which threaten the consensus surrounding the states-system and its mechanisms and institutions which provide the means to achieve that legitimate goal.



### 8.6 Issues for further research

The thesis has raised many questions and suggested some tentative relationships which need further investigation. An agenda for further research into the concept needs to include several issues.

I have concentrated on a Western orthodox model and whilst the idea has emerged of the states-system as a likely constant in non-Western models, this cannot be taken for granted. If this attempt to produce a model applicable to a particular group of states, those within a broad Western tradition, is reasonably persuasive then there is a need to try and produce other 'regional' models of legitimacy. This will test the hypothesis about the global relevance of the states-system and also look at how it interacts with different approaches to legitimising state forms and economic systems. An Islamic model of legitimacy, an East Asian model of legitimacy, a sub-Saharan African model of legitimacy, a Latin American model of legitimacy could all be produced and would all be of considerable value. They would lay the foundations for a comparative study of different models and also a consideration of the relationship between them.

I have stressed the importance of consensus to the legitimising power of value systems such as the three in the Western orthodox model. Comparisons between different models would also be valuable in looking at the extent of consensus that exists and, perhaps more importantly, the role of power. Caron and Murphy stress the importance of capabilities, i.e. power, of the leading states as a reason for the need for a Security Council in which some are more equal than others because their differing capabilities means some are more responsible than others because they have to

enforce the resolutions. An extension of this is to look at how capabilities not only include issues of military might but also the basis on which that might rests. Power projection includes the projection of the social, political and economic systems upon which that power, in the military sense, rests. Can models of legitimacy be part of this? The examination of Yugoslavia suggested how the Western model was able to partially penetrate the vacuum of legitimacy which opened in Yugoslavia during the 1980s. Can this penetration also occur into states where legitimacy is not in crisis but as the result of the military and political dominance exercised by rich, industrialised, militarised Western states?

These proposals for further work tend to assume the value of the proposed model of Western legitimacy. However, as has been stressed, it is intended as an orthodoxy. Therefore, there is a need for greater consideration of unorthodox challenges to it from within the Western tradition. Even within the orthodoxy, the relationships between the spheres I have described need more consideration. In particular, my emphasis on legitimacy as socially constructed and evolutionary means it would be useful to examine in more detail the historical development of the concept. My accounts of the political and economic aspects of liberalism are those of the second half of the twentieth century. Whilst I have argued they betray historical interaction with the historically prior states-system, those with a greater knowledge of the history of political thought than I would be able to look at this in more detail. Testing the way in which leading figures in the contractual and liberal traditions viewed the states-system and how this comes through in their writings and in contemporary actions and ideas would be helpful in further digging out the foundations of orthodox Western

legitimacy. Kant, Adam Smith, Rousseau, the Mills, Bentham are names which come immediately to mind as worthy of further research.

This thesis is therefore a tentative first step on a potentially long path towards better knowledge of the idea and ideas of legitimacy in international relations. If it makes a valuable start it is in showing the existing efforts to account for the concept to be a blind alley. They are too limited in their scope and coverage, and their basic premise of legitimacy as a procedural tag leads them to ignore its vital roots and to fail to tell the full story of legitimacy as a value judgement. The approach in this thesis is less straightforward but the rewards it yields are so much greater as to justify a little extra hard work by those attempting to tell us about legitimacy in international relations.



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